Provincial Secretary.

VOLUME NO. 57

ROYAL COMMISSION

ON CRIME

IN ONTARIO

DAILY TRANSCRIPT
OF PROCEEDINGS

Date Tuesday Oct.2/62.

pp 11486 - 11627

Supreme Court Reporters
145 Yonge St.
Toronto

VOLUME 57

INDEX OF WITNESSES

INDEX OF EXHIBITS

A/1/SW

TUESDAY, OCTOBER 2, 1952

---On resuming at 10:25 o'clock a.m.

THE COMMISSIONER: Gentlemen, we will not have a morning recess and we will adjourn at twelve o'clock so that I may attend a funeral, and we will then resume in the neighbourhood of two-thirty.

MR. WILSON: I am calling Mr. Cudney this morning.

ROBERT J. CUDNEY, recalled

EXAMINED BY MR. WILSON:

Q. You have before you a copy of Exhibit 272 ---

THE COMMISSIONER: Wait until I get those things that I left on my desk.

MR. WILSON: The Italo ---

THE WITNESS: Yes, I have the list.

MR. WILSON: Q. Were copies of these made for counsel?

A. I don't think so.

Q. You recall that on Exhibit 272, Mr. Yaremko dealt with the last five named club, and they were during his period in office, and the other clubs listed there, Mr. Cudney, you are to deal with.

A. Yes.

Q. Starting with the Italo-Canadian Recreation Club.

THE COMMISSIONER: May I see it here?

A. Certainly.

Would you like me to read it, Mr. Wilson?

MR. WILSON: Q. Well, just any way you see fit. Well now, you haven't got an extra copy of it for me, have you?

A. I haven't, no, Mr. Wilson, I'm sorry.

Q. Yes.

A. The Italo-Canadian Recreation Club filed an application on June 28th, 1954 ---

THE COMMISSIONER: From what are you reading?

A. Well, ---

Q. Do I have a copy of that?

MR. WILSON: I believe, my lord, you do. I believe there is one, Mr. Commissioner, and I think the Registrar has it. I don't know what he is reading from - the Registrar would.

THE COMMISSIONER: Yes.

THE WITNESS: The Italo-Canadian Recreation Club application filed June 28th, 1954:

" It is assumed that this "reference is to Italo-Canadian

"Recreation Club (Port Erie).

"On June 28th, 1954, application

"referred to Chief Constable of Port

"Erie, and Deputy Commissioner of

"O.P.P. Report of Chief Constable

"dated July 5, 1954, states that he

"has no objection to incorporation.

"Reports of O.P.P. dated July 21,

"1954 and July 23, 1954, suggest

"that other applicants be appointed

"to take the place of three names

"persons in report. Application

"redrawn with three persons in

"question not appearing as

"applicants. Letter from Depart-

"ment to O.P.P. dated October18, 1954,

"stating thaton thisbasis the

"Department understands that O.P.P.

"has no objection to incorporation.

"Letters patent cancelled on

"February 8, 1960, for default

"in filing annual returns.

" The name of this club should

"appear in Appendix F, but

"apparently it was overlooked in

"compiling the list."

THE COMMISSIONER: Where were the persons whose names were dolted as original applicants? Show them to me.

A. Yes. This, my lord, file was

given here and contains the Italo-Recreation Club,Toronto, as the correct name, and I will have it in another file.

Q. This isthe wrong file?

A. Yes, sir.

THE COMMISSIONER: Exhibit252 is the Italo-Niagara Frontier Club.

A. That is another club, my lord, the Italo-Niagara Frontier. This is the Italo-Canadian Recreation Club, Port Erie. The Italian Niagara Frontier Club was operated in Niagara Falls.

THE COMMISSIONER: Just a moment, Mr. Cudney, let's get straightened out. The file we looked over is the Italian-Canadian Recreation Club ---

A. The Italo-Canadian Recreation Club, Port Erie.

Q. What is the name of the persons who were deleted as the original applicants? Have you got the original application?

A. No, just a copy. I will look.

Q. Have you got a letter from the police which objected to --

MR. WILSON: This was the report, my lord, of the Provincial Police.

THE COMMISSIONER: Have you seen this correspondence including the report from

the O.P.P.?

MR. WILSON: I haven't read them myself, no, Mr. Commissioner. The notes I have on that refer to the report by Chief A. Foy and also a report of the O.P.P. made by Constable Audsley. I have not had a chance to read them.

THE COMMISSIONER: Well, for the

A/2 record in the file is a letter from Tomlinson, Staff Inspector, from which I quote in part as follows:

" It would appear from the "investigation carried out by "Provincial Constable Shrubb that "if this Club Charter were granted "in the name of the Italo-Canadian "Recreation Club (Port Erie) the "organization would no doubt be "carried on as a bona fide Social "Club and, based on the facts as "related in Provincial Constable "Shrubb's report, I would approve of "the issuing of this Charter, "with reservations.

" You will note in paragraph "six that Mrs. Rose Curletto, the "wife of Carlo Curletto - one of "the applicants - residing at the "premises 264 Jarvis Street, "Town of Port Erie, as a result of

"an Order to Search being
"executed at the premises
"in question, . . ." —

I now pause in my reading, and would enquire, Mr. Cudney, 264 Jarvis Street was to be the place from which this Italo-Canadian Recreation Club would operate?

A. The application submitted was not to cover the premises to any particular place, but in the letter to the Provincial Police the property of the club required was on the south side of Gilmore, and the north side of Idylwild in the Town of Fort Erie.

Q. All right. That is the correspondence that I was reading. Picking up the continuity of the sentence, perhaps I will repeat:

" You will note in paragraph
"six that Mrs. Rose Curletto, the
"wife of Carlo Curletto - one
"of the applicants - residing
"at the premises 264 Jarvis Street,
"Town of Fort Erie, as a result
"of an Order to Search being
"executed at the premises in
"question, has been charged with
"unlawfully 'Engaging in Book-
"making' contrary to the provisions
"of Section 235(e) of the Criminal
"Code."

And further:

" You will also note please,
"that Ferdinando Montemarani,
"also an applicant in connection
"with the Club Charter, resides
"at the premises 264 Jarvis
"Street, Town of Port Erie, Ontario,
"and, further, that Walter Harrison Kline,
"another applicant, is a son-in-law
"of Carlo and Rose Curletto."

And the Inspector goes on to say:

" I am satisfied thatCarlo
"Curletto must have knowledge
"that his wife was engaging in
"bookmaking, also that Walter
"Harrison Kline, being a member
"of the same family, no doubt would
"have knowledge of what was taking
"place at the premises, 264
"Jarvis Street, Town of Port
"Erie."

And it proceeds:

" I think before this Club
"Charter is granted that other
"applicants should be appointed
"to take the place of Carlo
"Curletto, Walter Harrison Kline
"and Ferdinando Montemarani, in
"order that all doubt be removed

"concerning the aforementioned
"persons.
" If the Department of the
"Provincial Secretary is in
"agreement with my recommendation
"then, on the submission of three
"other persons to substitute the
"above mentioned, a further
"investigation should be conducted
"in respect of the applicants
"selected."

Q. Then what happened after that, Mr. Cudney? I suppose they substituted three others for Curletto, Kline, and Montemarani?

A. Yes.

Q. In due course a charter was issued?

A. I see there is a letter to the Deputy Commissioner of the Provincial Police, on October 13th:

" I refer to the application
"for incorporation under the
"above-named, to our letter of
"June 8th, and your reply of
"July 21st. The application has
"been withdrawn and Ferdinando
"Montemarani, Carlo Curletto,
"and Walter Harrison Kline do not
"now appear as applicants. We

"are proceeding with the
"matter as I understand you
"have no objection to its
"incorporation."

THE COMMISSIONER: All right. Then the charter was subsequent?

A. Yes.

Q. The date of the incorporation?

A. October 8th,1954 and was subsequently cancelled for failure to file annual returns.

Q. Cancelled on February 8th, 1960.

A. February 8th, yes, I am sorry, February 8th, 1960.

Q. All right.

MR. WILSON: Q. Well, the report I refer to, Mr. Commission, has to do with a club of a similar name. It was on Mr. Estey's list, so that I have no knowledge of what was read in connection - it was Assness Recreation Club,1959.

THE COMMISSIONER: Well, that - just a minute.

MR. WILSON: I am sorry, I was reading the wrong one - Wong Wing Social Club. I have two lists before me, Wong Wing Social Club and ---

THE WITNESS: The Department has no

record of any incorporation, or any application for incorporation under this name.

(Page 11500 follows)

B/AS/1

THE COMMISSIONER: Where did you get the name of the club, Mr. Wilson?

MR. WILSON: I got that from the Ontario Provincial Police; and it was one where they said they did not know what disposition had been given, or had been made of the matter.

THE COMMISSIONER: There was not even a charter issued?

MR. WILSON: No.

THE WITNESS: We cannot find any application, my lord.

THE COMMISSIONER: All right.

MR. WILSON: Q. The next one is Wing Lee Social Club.

A. Application, dated April 1st, 1955.

Application referred to the chief constable, Toronto; the Commissioner of the Provincial Police, and to the Royal Canadian Mounted Police, in April, 1955.

Report of the Mounted Police stated that there was no objection to the application. The report of the Provincial Police strongly recommended against the application. The report of the Toronto Police strongly opposed the incorporation. And then, the application was withdrawn, on a letter from the solicitor, in October, 1955.

I may say, my lord, that this application does not appear in Appendix I as "rejection"

because it was withdrawn. The incorporation was not granted.

Q. The next one is Wong Kung Mar Wun Sun Association.

A. The application was received August 17th, 1956; referred to the Mounted Police, the Deputy Commissioner of the Provincial Police, and the Chief of Police of Toronto, in August, 1956.

Report of the Mounted Police dated August 28th, 1956, stated that they had no objection to the incorporation.

The report of the Toronto Police recommended that incorporation be refused, and the report of the Provincial Police, dated October 25th, 1956, stated that the organization was a legitimate one, and should be granted letters patent, provided that they do something about a certain club name -- named club there, occupying the main floor of same building.

This, my lord -- this club is also mentioned on the Metro list, and I have a little more information perhaps as to the nature of the report; the nature of the police reports in regard to this. May I read this?

THE COMMISSIONER: Yes.

THE WITNESS: The Toronto Police stated

that no records against applicants could be found in the record, and their report indicated that premises 111-A Dundas Street West, Toronto, would be suitable if certain conditions were fulfilled, such as premises being confined to the second floor.

The report concluded that there are now nine known Chinese social clubs operating in the Dundas Street-Elizabeth Street area and in the Chinese area, and one Wong Kung Har Wun Sun Association, and that this application will undoubtedly develop into a gambling establishment if charter is granted, and recommended against the granting of the charter.

The Provincial Police indicate they have nothing against the applicants as far as they are concerned; there was no indication of illegal gambling. But they felt it would be unwise that letters patent be granted to the Association in question, as long as the main floor and basement are used for what appear to be illegal purposes.

They further think that the proposed corporation was a legitimate club, provided it could do something about another club on the main floor.

And then, in December, the 7th, I wrote to the Deputy Chief, Deputy Chief Lee, Toronto,

advising him that the Department had carefully considered the application and decided to grant the application.

Now, I might say, my lord -- and this is difficult -- but apparently I am advised that this turned up in our first search.

In going through the files and reading the objects, the objects are not the objects of a social club. They are: (A) To supply and render services of a charitable nature to poor and needy persons.

(B) To promote culture, religion and education.

(C) To render pecuniary assistance to members, their families, widows and orphans.

(D) To co-operate with other organizations whether incorporated or not which have objects similar in whole or in part to the objects of the corporation.

(E) To give donations for charitable or patriotic purposes, to receive gifts and don_ations, and to assist in campaigns for charitable purposes.

There was nothing of a social nature, and I was advised by the Director of Companies that that was in the other case deleted, and it did not appear because it was not a social club.

It was referred to the police, but it

was not a social club.

MR. WILSON: Q. The next one is the Victoria Recreation Club.

A. Victoria Recreation Club: Date of application, March 10th, 1958.

Application referred to the chief constable, Stamford Township, and Deputy Commissioner, Ontario Provincial Police, on March 10th, 1958.

Report of Ontario Provincial Police dated March 21st, and report of Stamford TownshipPolice Department dated March 26th, 1958, were both opposed to incorporation.

The application was refused; the incorporation was not granted.

This should appear in Appendix I, in the "Rejection", but apparently was overlooked in the compiling of the list.

Q. The Club Metropolis?

A. Club Metropolis: Date of application, November 27th, 1958.

Application referred to Deputy Commissioner, Ontario Provincial Police, and to Chief of Police, Kitchener, on November 27th, 1958.

Reports of Provincial Police and Kitchener Police both dated December 11th, 1958, and the matter was held in abeyance.

Apparently the Provincial Police report -- they were not conclusive from either police report; it was not conclusive, in that they

wished further names.

If I refer from the file, we requested further names, and they were not submitted. The application was held in abeyance, and then the application was not pursued. We did not hear on the further names, and the Department treated the application as abandoned.

Now, we do not have anything from the police one way or another; we feel at this time that, because the information was not submitted, this is treated as abandoned; and for this reason it does not appear in Appendix I, because it was not a rejection.

Q. Peterborough Greek Social Club?

A. The date of application, August 5th, 1958.

Application referred to Provincial Police, Chief of Police, Peterborough, and Mounted Police, on August 5th, 1958.

Report of Mounted Police, dated August 18th, 1958, had no objection.

Report of Peterborough Police, dated August 15th, 1958, recommended against incorporation.

Report of Provincial Police, dated August 15th, 1958, approved incorporation, but report of Provincial Police dated December 4th, 1958, rejected approval of

B/2

incorporation. And the incorporation was refused. It was refused in September, 1958.

This application appears in the rejections in Appendix I, Part 1, on page 48.

Q. "Santa's Helper"?

A. "Santa's Helper", date of application, December 3rd, 1958.

Application was referred to the Provincial Police, and the Chief of Police of Windsor, on December 23rd, 1958.

Report of the Provincial Police Department, dated January 5th, 1959, stated that this was not the type of operation which should be granted incorporation as the main reason for seeking a charter would appear to be to conduct lotteries and raffles.

The report of the Provincial Police, dated January 6th, 1959, stated that incorporation should not be granted as the moneys collected could easily be converted to private use.

The application was refused on January 7th, 1959.

Now, this application does not appear in Appendix I; apparently the name did not indicate a social club, and going through the cards of rejection it was not picked out as a social club, and that is the only explanation I can give your lordship.

Q. And the next; the next matter will be to deal with the balance of the names on Exhibit 273; and I think the first one that we ought to deal with is the Azzanese Recreation Club, 1959.

A. Azzanese: now, this application was referred to the -- I think it is the Toronto Police.

The Toronto Police and the Provincial Police: It appeared from their report that the applicants were from the Town of Azzano, in Italy, and meetings were to be held at a church.

The Provincial Police had no objection, if the premises, the club premises were restricted to the church or parish hall of the church.

The Metro Police thought that the issuance of several charters to groups in the same church was unnecessary, and suggested that a branch be formed of an existing charter rather than issue a new charter. There was no suggestion of gaming or anything of an illegal motive; they thought that it should be -- that there should be only one charter.

Thought was given to that matter, and it was decided that it is common for a number of ethnic groups to have their own

group; their own particular group , like some types we have seen perhaps in Ontario. People come to Toronto and have their own groups; and incorporation was granted on April 23rd, 1959.

Q. Citizens Reparation League, 1957?

A. Letters patent, dated September 23rd, 1942. Incorporation, through its solicitors; submitted draft application for supplementary letters patent in 1957.

The applicants were to redraft the objects. The Deputy Minister informed.

On March 8th, 1957, I advised the corporation solicitor that it would be necessary to refer the application, particularly in respect of the location of the club house, to the local and provincial authorities; and the application, the proposed application was referred on March 15th, 1957. The Provincial Police stated that all the persons interviewed with respect to the corporation assured the writer that none of them had criminal records; and owing to the fact that they were all reputable persons, and the sincerity of the objects, the writer felt -- that is the Provincial Police -- felt that there was no reason to oppose application for supplementary letters patent; and the City Police had no objection. That

is, neither the Provincial Police nor the City Police objected, and ultimately supplementary letters patent were issued.

There is a note, my lord, on the file, that apparently something occurred in July, 1950. There is a memorandum signed by me on the file, in communication with Deputy Chief Lee, as to something that occurred on the premises. It does not say what it was. Inspector Lee said, in my memo -- he said he was not recommending that the charter be cancelled in this instance, but if it happened again further action would have to be taken. That is the only thing we have on file, in July.

Q. We find that in the appendices?

A. That is what we call the old file. No; this is not referred to in the appendices at all. It was granted, you see, Mr. Wilson, in 1942 before the date under review, and it was a supplementary; that is, it was granted after the date of review on the brief. I mean, the supplementary; the police had no objection, either the Provincial or the City Police, and therefore it does not appear in the appendices.

The only supplementaries that appear in the appendices that were granted, in the ten year period were these ones where

the police had no objection.

Q. The next one is the Deutscher Automobile Club, 1960.

A. Incorporated by Ontario letters patent March 30th, 1960. Application referred to police. The Provincial Police had no objection; the Toronto Police did not give any intimation of possibility of illegal gaming, but indicated that the report of their traffic engineer suggested that the proposed club premises, 4 Greenbrook Drive, Toronto, was a residential area, and the by-law did not permit parking. For this reason the Toronto Police objected, but added if some other suitable location was secured, or the charter issued with the stipulations or stipulation that no club house would be maintained, the Toronto Police would have no objection.

And then one of the applicants, one of the applicants enquired about the application in October.

In December Mr. Thompson, a Departmental solicitor, wrote to the Provincial Police and Toronto Police, advising that the application for incorporation had been amended to the effect that the club premises were to be at the new address of 246 College Street, and asked for their comments.

He wrote to the Mounted Police. The Provincial Police had no objection; the Mounted Police had no objection; the Metro Police had no objection, provided that the members did not charge ten cents an hour, as permitted under the Criminal Code.

So, there was no objection by any of the three police bodies, and the letters patent were issued, with the usual prohibition against charging ten cents an hour.

THE COMMISSIONER: Mr. Wilson, it has just occurred to me that perhaps we could save time.

Attached to and forming part of Exhibit 273 is a summary of what transpired, as appears from the files of the Provincial Secretary's Department.

MR. WILSON: Yes.

THE COMMISSIONER: And the witness is reading from these, pausing from time to time to make some observations, that perhaps are not really necessary.

We could save time by simply asking the witness if the memorandum attached, from which he is now reading, correctly sets out the disposition of the matters, and when those transpired.

MR. WILSON: Q. Unless there is something

controversial in any of them that you want to speak about; I think that is the idea.

A. No. These are notes that I am

B/3 reading from, my lord. I made these notes when the list was submitted about two weeks ago. They were done hurriedly at the time, and we did not know just when we would need them, and they are supplemented with certain other pencilled notes, and I have been going over them.

THE COMMISSIONER: Do you think it would be helpful perhaps if you did not adopt the suggestion that I made, but rather read what you have?

A. No. I think these should be submitted as they are, my lord.

Q. That is all right; it could be submitted, thank you.

MR. WILSON: I think so.

THE COMMISSIONER: And, Mr. Estey, there is nothing particularly controversial about any of these, is there?

MR. ESTEY: Not that I am aware of, no.

THE COMMISSIONER: Just treat it that way, and it will save a lot of time.

THE WITNESS: Pardon me; I cannot see anything controversial here, my lord. There is one, the Lithuanian ---

MR. WILSON: Q. The Community Association?

A. The Lithuanian Community Association. The City Police had no objection, provided that they did not apply for a liquor licence, and we did write to the solicitor for the applicants that it was granted, but they should give an undertaking; and then there is a note on the file that the undertaking was not required.

Now, this is back ten years ago, and I just cannot remember it. I think perhaps at the time the Minister was also the Liquor Commissioner, and he said, "I will look after this." That is the only one I can see, my lord.

MR. WILSON: Q. All right. There is only one matter that I want to direct your attention to. Yesterday Mr. Yaremko, in his evidence on page 11484, spoke about the Hamilton Businessmen's Bridge & Chess Club, and said that you would be able to give the cause for the cancellation in respect of that club.

A. That is one that was cancelled some years ago. It has only come to my attention very recently because, in going over our list of cancellations, the cancellations are carded, and this was one that, through some oversight in the Department, was not carded at the time the cancellation

was made some years ago, and that is why it did not appear in our list of cancellations.

THE COMMISSIONER: When was the charter cancelled?

MR. WILSON: Q. The charter was cancelled on March 18th, 1954.

A. March 18th, 1954. There was a memorandum by me to Colonel Welsh, the Minister, in which I referred to the report of the Provincial Police. My memo to Colonel Welsh was in March, 1954, to the effect that the premises of the club -- that they had plywood doors, and over the windows wire netting. In addition to plywood installed in the windows on the second floor; and further that there were two plywood doors installed at the foot and the head of the stairs leading to the second floor. The memorandum said that the charter had contravened the "bars and bolts" clause. This was incorporated in 1957, and had the "bars and bolts" clause in the charter.

I would say it was cancelled by reason of the "bars and bolts" clause.

We were cancelling these, too, at that time, if any clubs had barricades, whether they had the "bars and bolts" clause or not. It may be one or the other. I would say

more than the barricades, the "bars and bolts" clause, and that is why it was cancelled.

MR. WILSON: That is all.

THE COMMISSIONER: Do you want to postpone your cross-examination? As I understand it, you do.

Thank you.

---The witness withdrew.

JOHN BARROW, sworn,

EXAMINED BY MR. WILSON:

Q. Where do you reside?

A. At 51 Hilldowntree Road, Islington.

THE COMMISSIONER: 51?

A. Hilldowntree. One word.

MR. WILSON: Q. In 1956 were you engaged in the real estate business?

A. Yes, I was.

Q. At what location?

A. In 1956 we had two subdivisions; one was out in Orchard Heights, and another one at Keele and Lawrence.

THE COMMISSIONER: Orchard Heights?

A. Orchard Heights, yes.

Q. Yes?

A. The other one was Keele and Lawrence. The name of the subdivision was the Glendor Gardens.

MR. WILSON: Q. During 1956 did you have a meeting with Joe McDermott?

A. A meeting?

Q. Yes.

THE COMMISSIONER: A discussion.

MR. WILSON: Q. A discussion. It does not matter what you call it.

A. Yes. I spoke to Joseph McDermott many times; he had purchased a house in the

subdivision that I was selling.

THE COMMISSIONER: Which one?

A. In Orchard Heights.

THE COMMISSIONER: Just a moment.

MR. WILSON: Q. That was 1519 Romstown Drive?

A. That could be the number.

Q. So you had had a number of contacts with Mr. McDermott?

A. I spoke to him many times on his front lawn; many times.

Q. Did he at any time say that he had a friend who was interested in purchasing a property in that subdivision?

A. There was a sale on Kenneth Drive to a man -- I cannot remember the circumstances, but it does come to my mind that there was an association. He either established that he was a friend, and he wanted me to give him a good deal, or the friend said he knew McDermott; I cannot recall exactly.

Q. If I follow you, you say either McDermott said, "Give this man a good deal", or the man who bought on Kenneth Drive said he was a good friend of McDermott's. Is that what you say?

A. There was an association; I am trusting my memory in talking on that.

THE COMMISSIONER: About when was this?

A. About 1956. Possibly a little later on; but I think 1956.

Q. Yes?

A. And he ---

Q. And he later on turned out to be whom?

MR. WILSON: Q. Yes. Who was the man? Who was the man at Kenneth Drive?

A. The officer mentioned it to me ---

THE COMMISSIONER: Cronin?

A. Cronin, or Conin.

MR. WILSON: Q. Did Cronin in fact make a purchase through your office at that time?

A. Yes, he did purchase a home on Kenneth Drive through our company.

THE COMMISSIONER: Do you know where he was living before he purchased that place? At the time he purchased it?

A. Out around Agincourt, somewhere.

MR. WILSON: And did you speak to Cronin yourself?

A. I believe that I did speak to him on a Sunday evening. I did not show him the house; one of our salesman transacted the deal, and, as I recall, I did arrange that the people who owned the house allow him to go through; I think I met Cronin at the property. I did not go through with him, as I recall.

Q. But you knew this person was coming to look at the property before he actually came; and the reason that you knew was because Mr. McDermott had spoken about it?

A. No, sir; usually that is the way it sells. I just recall there was an association. Whether it was my salesman who said he wanted the appointment made, or whether it was McDermott, sir, I could not swear to it. It is a long time ago, and I am trusting my memory; but I know there was an association. They were friends; I was told that.

THE COMMISSIONER: By one or the other?

A. Yes, yes.

MR. WILSON: Q. Did you ever suggest to any one that McDermott or Mrs. Cronin and Mrs. McDermott were related?

A. I have heard that since.

Q. That is something you heard since?

A. Yes.

Q. Where did you hear that?

A. I do not know, sir.

MR. WILSON: That is all.

B/4 THE COMMISSIONER: Mr. Rose?

EXAMINED BY MR. ROSE:

Q. Now, you remember Cronin, do you?

A. No. I would not know the man if I saw him, sir.

Q. I see. At this time that the house was purchased, I believe that Mr. Cronin had been out of the police force for approximately two or three years. Is that not correct? Or do you know?

A. I would not know,sir.

Q. And when you say you knew that there was some association, you do not know whether Cronin had mentioned to your salesman and then to you that he knew McDermott, who had already purchased a home, or whether McDermott said, either to you or your salesman, that Cronin was interested in purchasing a home? Would that be a fair way of putting it?

A. I could not swear exactly how it happened. I will say this, that Mr. McDermott lived in a corner location on the main artery in the subdivision, and on occasions,then several people found our sales location -- we moved into a new model, and several people said that the man on the corner had sent them up from there. It was fairly common. McDermott sent people around. He was kind of a key location

around there.

Q. Are you able to tell us with any degree of certainty that either one of them spoke to you, that the other was a friend?

A. Sir, I only know that I knew there was an association and they were friends. And from my memory I would say that I heard it from one or the other; but I am trusting my memory. I do not remember the incident in detail.

Q. This would be in 1956 or 1957?

A. I think 1956. We did have a sales record, that is right; but our firm went into bankruptcy and the files were destroyed after bankruptcy.

Q. You were aware that Mr. Cronin was obtaining an interest in a chemical company or a medical company that Mr. McDermott controlled?

A. No, I did not.

Q. You did not know that? Thank you.

---The witness withdrew.

AL DOWDING, sworn.

THE COMMISSIONER: What does the "Al" stand for?

A. Alfred.

EXAMINED BY MR. WILSON:

Q. Where do you reside?

A. I reside at 14 Emery Circle, Weston, Ontario.

Q. And in 1956 were you a salesman employed by the Barford Realty Company?

A. Yes, I was.

Q. And the last witness, John Barrow, was what -- the president of the company?

A. He was my superior.

Q. Your superior?

A. The owner.

THE COMMISSIONER: What is the name?

MR. WILSON: Q. Barford Realty Company Limited?

A. Barford Realty Company Limited.

Q. Now, in 1956 did you have something to do with the sale of a property on Kenneth Drive to Mr. and Mrs. John Cronin?

A. Yes, sir. I showed them the house and I procured the offer from them.

Q. Now, did Cronin at any time suggest to you that he had been directed to this area by Joseph McDermott?

A. No, sir. Mr.Cronin was turned over to me by Mr. Barrow; he came and introduced himself. So, I used to be in the subdivision all the time, about the model home; and he came on this Sunday with his wife. They had seen the sign, apparently, on this house; we had a sign on it "For Sale", and ---

Q. What, if anything, did Mr. Barrow say at that time, or later that day, about any association between Cronin and McDermott?

A. He did not say anything to me. He just -- he said, "There will be a chap coming in who wants to see that house down on Kenneth Drive", so I went around to it, and they came in; I think it was in the afternoon. And I showed them their house.

Q. Did he say anything about how the man came to be interested?

A. He said he was referred to him by a friend of this chap's.

Q. Yes. Is that all?

A. He did not even know Cronin's name at the time. He came and introduced himself to me and I gave him my card.

MR. WILSON: That is all.

MR. ROSE: I have no questions, thank you.

(Page 11525 follows)

C/1/DO'N

MR. WILSON: Thatis all.

---The witness retired.

MR. WILSON: I will call P.C. Sheldon.

WILLIAM ALBERT SHELDON, sworn

EXAMINED BY MR. WILSON:

Q. You are a member of the Ontario Provincial Police?

A. Yes, sir.

Q. And stationed at -- ?

A. Kinearding.

THE COMMISSIONER: Q. How long have you been on the Force?

A. Eleven years, September 18th, past.

MR. WILSON: Q. In December, 1953, you were stationed at Toronto?

A. That is correct.

Q. And these two reports that I show you, dated December 17th, 1953, and December 29th, 1953, are they reports made by you in respect to a raid made on the premises of the Veterans Riverdale Social Club in the township of North York on December 15th, 1953? Will you just identify those two?

THE COMMISSIONER: Show them to him.

(Produced)

December what?

MR. WILSON: December, 1953.

THE COMMISSIONER: What date in December?

MR. WILSON: December 17th and 29th.

THE COMMISSIONER: The date of the raid?

THE WITNESS: December 15th.

MR. WILSON: Q. Have you got copies of those reports with you?

A. No, I have not.

Q. I will need those. The copies that are made, you can't read them.

These reports will be filed as exhibits.

THE COMMISSIONER: Yes, 274.

MR. WILSON: A and B.

THE COMMISSIONER: All right.

---EXHIBIT NO. 274-A: Report made 17th December, 1953.

---EXHIBIT NO. 274-B: Report made 29th December, 1953.

MR. WILSON: Q. Were you attached to the anti-gambling branch on December 15th, 1953?

A. Yes, sir.

Q. How long were you on that branch?

A. That would be just approximately two years I had been on them.

Q. Did you start in that branch when you joined the Force?

A. Yes, sir.

Q. Who was in charge of the raid

on December 15th, 1953, on the Riverdale Club?

A. Sergeant Von Zuben would be in charge of the gambling officers.

Q. Am I right in saying, the only other officer was Constable W.J. Miller?

A. I would have to go by the report. I can't, at this time, just remember.

Q. Maybe you could look at the top of that and tell us.

A. Yes. Sergeant Von Zuben, Constable Miller and myself.

Q. Maybe you better just hold that for the moment. Was Miller on the anti-gambling squad at that time?

A. Yes, sir.

Q. You were accompanied, as I understand it, by certain members of the North York Police Department?

A. Yes, sir.

Q. Now, how did this raid come about? How was it set up? Who gave the tip-off that there should be a raid made on that club?

A. I do not know, sir.

Q. You don't know?

A. No. I recall Sergeant Von Zuben distinctly, for sure. We went in a gambling squad car somewhere up near Dufferin Avenue at the north end, and there we waited and met the North York Police Department.

Q. Sergeant Von Zuben didn't say anything to you about an anonymous telephone call he had received that morning?

A. He did not.

Q. He did not. We will get him to tell us his own story. Tell us what happened. What time of the day was it when you got to the premises?

A. It was approximately 11 p.m. at night.

Q. Tell us about your entry into the premises.

A. I recall I was in the first car on the passenger's side, on the outside, and I was the first one out of the vehicle. And we drove in a driveway and stopped a short distance from the premises. We ran to an outside door. I tried it and it was locked and they were told to open up. Someone in there - there was quite a few occupants - stepped up and unlocked the door.

Q. Well, was it opened immediately?

A. Well, it would just be a matter of seconds, I suppose.

Q. Was that usual when you went to a gambling establishment?

A. No, it wasn't. They didn't usually open them at all.

Q. Then you got inside, and what happened next?

A. We went in, I believe it was through a porch we entered into, along a hall. I turned left through a door at the bottom of the stairs, which was open, and went up the stairs to another door at the top, which was open, and went right into a large room.

Q. I see, if you look at your report, in paragraph 2 you say something about a door into the reception hall locked. Is that the first door that you came to where you had a problem?

A. It was the first door that was locked.

Q. That is the one you are telling us about, then you asked them to open up and it was opened immediately?

A. Yes. We were outside. We were not in the premises. That was our first door.

Q. Where was the gambling room? Upstairs or downstairs?

A. Upstairs.

Q. In order to get to the gambling room, did you have to go through any other doors that were closed or locked?

A. No.

Q. In other words, once you got in, you were able to walk upstairs and into the gambling room?

A. That is correct, yes.

THE COMMISSIONER: Q. There were other doors. One at the foot of the stairs and one at the top of the stairs?

A. Yes, but they were open.

Q. They were open.

MR. WILSON: Q. When you got into the gambling room upstairs, was the game still in progress?

A. Yes. As I recall, there was dice on the table and some person had a rake in his hand and was just raking them in.

Q. Were there any other gambling paraphernalia on the table? What was it? A pool table?

A. It was one of the large snooker tables.

Q. There were not any buzzers sounded or alarm signals sounded after you got into the bottom floor?

A. Not that I recall.

Q. You say they were still taking off what, the dice?

A. The game seemed to be right in progress.

Q. Right in progress. Had you, when you went on that raid, had you received any instructions to look for a particular individual?

A. No, I did not.

Q. You did not?

A. No.

Q. Did you have any idea, from the instructions that you received, who might be in charge of the operation?

A. No, I did not.

Q. Well then, what did you do after you got into the gambling room?

A. I approached the snooker table, around which several men were standing. I seized a glass rake and dice and a sum of money.

Q. Now I see -- quite possibly you can read from your report, as I can't read this copy very well. You correct me if I am in error. About half way down paragraph 2, it says:

"In this room I observed
"approximately 35 to 40 men
"congregated around a large
"snooker table which measures
"approximately 6 feet wide
"by 12 feet long. Approaching
"the table I observed --- "

Maybe you could read it from there.

A. ". . . I observed a
"man directly in front of me
"with a dice rake in his hand
"and in the looped end of the
"rake were a pair of red dice.

"Just as I made these
"observations a man standing
"at the middle of the table
"on the opposite side of the
"room, later identified as
"William Dominic Simone, said
"'The rake, the rake'. At
"this point I reached over and
"grabbed the rake at the same
"time observing Simone remove
"a bundle of currency and a
"box containing chips from the
"table. I announced 'Provincial
"Police' and moved in the direction
"of Simone who by this time had
"moved into the north-east corner
"of the room where he attempted
"to rid himself of the box of
"chips. I took possession of
"the box and brought Simone back
"to his former position at the
"table where he was instructed
"to remove everything from his
"pockets."

THE COMMISSIONER: Q. By whom?

A. By myself.

"From Simone's hand I seized a
"bundle of currency which was
"found to contain $1,217.00.
"Simone produced two pair of red

"dice, one pair wrapped, one
"pair not wrapped; $1.43 in
"silver; one $10 American bill;
"one $5 Canadian bill; one
"$1 Canadian bill; one Bank
"of Nova Scotia counter cheque
"drawn on the Bank of Toronto
"in the amount of $41.60 signed
"by W.D. Simone, made payable
"to A. Dunlop and endorsed on
"the reverse side by 'Al Dunlop',
"dated December 21st, 1953;
"keys; wallet, etcetera. At
"this point I asked Simone if
"that was everything and he
"replied 'Yes'. I then frisked
"him and felt a pair of dice in
"his right sock."

MR. WILSON: Q. Just at that point, why did you frisk him?

A. Before entering the premises on this raid, we had been advised that one of the operators may be in possession of a revolver. He may be carrying a revolver.

Q. Who said that?

A. I couldn't tell you. I don't recall.

THE COMMISSIONER: Q. Was it someone on the raid with you?

A. Yes, someone on the raid.

MR. WILSON: Q. Was it an O.P.P. officer or a member of the North York Police Force?

A. I don't recall who told me that.

Q. Whose car were you in when you went to the premises?

A. I could not say. I don't recall.

THE COMMISSIONER: Q. Well, you said you met the North York police at the end of Dufferin Street, some place?

A. Yes.

Q. Did you start out from Provincial Headquarters?

A. Yes.

Q. You would be in a Provincial Police car?

A. Well, I was thinking we may have changed there.

Q. Changed where?

A. Changed around in the cars. I recall I was instructed to be in the first one in.

Q. Well, be that as it may, if you left Provincial Headquarters in a Provincial Police car, as you say --

A. Yes.

Q. -- you think you may have changed into another car before you arrived. Is that what you are saying?

A. Yes.

MR. WILSON: Q. Now, you say you have no idea what car you were in or who was with you when you got to the premises?

A. Whichever car I was in, the North York or the Provincial Police, I recall Sergeant Von Zuben being in the car with me. The instructions were that I would be the first one in.

Q. Who was in this gaming room when you frisked Simone?

A. There would be several other occupants.

Q. Yes. And what happened in the course of the frisking of Simone?

A. I asked Simone, "Are you sure that is all you got?" and he replied, "Yes". I then told him to take the dice out of his sock, which he did, placing them on the table.

Q. How did you know sthere was any dice in his sock?

A. When I frisked him, I went right down to his shoes, and I felt them in his sock.

Q. And when you went in there, you say the game was in progress and Simone was in the centre of the table; is that right?

A. Yes.

Q. And did you keep him under

observation from that time until the time that you frisked him?

A. Yes.

Q. And so that when you first broke into that gaming room, or went into that gaming room, I take it that they were all taken by surprise?

A. Yes, sir.

Q. Well then, how soon after you broke into the room or got into the room, did you frisk Simone?

A. I would have to estimate that. I would say five minutes.

Q. I take it, from your report, that you had him under observation from the time you entered, because he is the man who was trying to get the croupier out of the picture?

A. I seen him pick up a large stack of money and I didn't take my eyes off him because I wanted to get hold of that, specially.

Q. And he was trying also to get rid of the poker chips in the corner of the room, and you followed him over?

A. That is right.

Q. Was it at that point you frisked him?

A. I brought him back to the table.

Q. And frisked him there?

A. And frisked him there.

Q. You say in the course of frisking him, you found some objects in his socks. Did you know what theywere when you felt them?

A. By the size and shape, It just came to my mind that they were a set of dice.

Q. From what you have told us, would it have been possible for him to have put these dice in his socks after you entered the room and observed him for the first time?

A. I would say no.

Q. So that, in your opinion, the dice must havebeen in the sock before you entered the room?

A. Yes, sir.

Q. Were those particular dice red?

THE COMMISSIONER: In colour?

MR. WILSON: Q. In colour?

A. I couldn't just say. I haven't got the colour in my report.

Q. If you would just carry on with your report. You say you found something unusual about the dice.

A. "I checked these dice "and observed that one die bore "two three's and the other die "bore two four's. I immediately "passed this pair of dice over

"to Sergeant Von Zuben, calling
"his attention to the spots on
"same."

Q. Based on your experience in the anti-gambling squad to that date, would it be possible, in a game of that kind, where there was a lot of experienced gamblers, to have made any use of that type of dice?

A. It would have been possible.

Q. Do you think it would have bee n probable?

A. I would say no. Thinking of them as experienced gamblers, it would be chancey.

Q. I take it, they were all experienced gamblers?

A. I couldn't say that, sir.

THE COMMISSIONER: Q. What led you to examine the dice which you picked up?

A. It must have been just the fact that they were in his sock and I just looked at them.

Q. What prompted you to examine them carefully enough to determine there were two three's on one and two four's on the other?

A. Just the fact that they were hidden, I would be suspicious.

MR. WILSON: Q. Did you find any gun on either Simone or on the premises?

A. I did not.

Q. Or did anybody else that was on that raid find a gun?

A. Not that night.

Q. Or any other night?

A. Not that I know of.

THE COMMISSIONER: What time is it, Mr. Wilson, may I ask?

MR. WILSON: It is about twenty minutes to twelve.

THE COMMISSIONER: We will have a five-minute recess.

---A short recess.

MR. WILSON: Q. Did you ask Simone for any explanation as to the dice that were found in his sock?

A. I did not.

Q. Did he offer any explanation?

A. No, not that I recall.

Q. Did you or any other person make any public statement to the persons assembled, as to finding of the dice in question?

A. Public statement?

Q. Yes. I mean, -- you say you took them out of his sock. What did you do with them?

A. I passed them across to Sergeant Von Suben.

Q. Did he make any statement to the people who were there, about thedice?

A. Not that I recall, sir.

Q. Did anybody, to your recollection, make any statement about the dice?

A. No, sir.

Q. Was the matter of these dice and their possible use in any game that might be carried on on those premises, covered in the testimony in the police court after the charges were laid? And the matter was up for hearing?

A. I believe I mentioned it.

THE COMMISSIONER: There was a plea of guilty.

MR. WILSON: I think the witness said there was some discussion of it in the police court.

Q. I just wondered what the recollection of this witness was.

A. I just don't recall. I am sure it was mentioned in court.

Q. Who was it mentioned by, to your recollection?

A. By myself, in giving evidence.

Q. Was there any statement on the point by counsel for Simone?

A. I don't recall, sir.

MR. WILSON: That is all, thank you.

MR. ROSE: I would like to read this report, Mr. Commissioner, before I question this witness. I have not seen it.

THE COMMISSIONER: Yes.

Q. I don't understand yet, and perhaps I don't quite appreciate it, but what would prompt you to start examining the dice in respect to the numbers and the dots on them? You say because he had them on his person, secreted?

A. I just don't recall the incident specifically, but I would assume I would be suspicious with them in his sock.

Q. That would be a good place to hide good or crooked dice, wouldn't it?

A. Yes, it would.

Q. What prompted you to start examining them? There is no more reason to think they were crooked than if they were fair dice, the fact that you found them in his sock?

A. No, I suppose not.

Q. I can't quite understand. Had it been suggested earlier that there might be crooked dice there?

A. There had been no suggestion that I knew of, my lord.

Q. Did you draw Von Zuben's attention to the fact that they were crooked dice, when you handed them to him?

A. Yes, I passed them across.

Q. What did you say to him?

A. I told him to look at them.

Q. And did he, then?

A. Yes, he took them.

Q. And looked at them?

A. Yes.

Q. And did he say anything about them to the people that were playing?

A. Not that I recall.

Q. If he had, you would have heard it?

A. Yes.

Q. You are not on the anti-gambling squad now?

A. No.

Q. How long is it since you left the anti-gambling squad?

A. I left on September 1st, 1954.

Q. And were you transferred to Kincardine then?

A. No, I went to Mount Forest.

Q. Had you been on many raids prior to this one?

A. I would say several,yes.

Q. What do you mean by "several"? Two would be several. A dozen?

A. A dozen, yes.

Q. Or more or less?

A. Or more. I would say more.

Q. How many more? Two dozen?

A. I wouldbe just guessing to say 15 or 20.

Q. How did the ease with which you executed this warrant and got into the premises and made your seizure, compare with the ease or difficulty that you usually experienced?

A. It wasn't the same at all.

Q. No, it wasn't the same at all. What was different about it?

A. Well, it was very easy here. Usually we would have to knock the door down.

Q. Or wait some appreciable time?

A. Yes.

Q. To use the vernacular, this was a cinch?

A. Yes, it was.

THE COMMISSIONER: All right, Mr. Rose.

EXAMINED BY MR. ROSE:

Q. Mr. Sheldon, Mr. Wilson said to you and he asked your opinion that if these dice had been used in a game where there were several experienced gamblers, and these certainly were experienced gamblers?

A. I couldn't say, sir, I do not know.

Q. Aside from Simone and this other

man, Miller, that was taken into custody, did you know any of the other players as being operators of gaming houses or experienced gamblers in the city?

A. I did not.

Q. Insofar as this pair of dice is concerned, which were found in Simone's sock, did you read the evidence Simone gave here? Did you read it in the newspaper?

A. No.

Q. I might ask you what you say to this? Mr. Simone, under oath, swore he didn't have any dice in his sock and that, in effect, you framed him in respect to the dice. In other words, you evidently carried these phoney dice in with you and purportedly put them in his sock. What have you got to say about that?

A. I did not carry these dice into the premises. The first ---

Q. I am sorry.

THE COMMISSIONER: Let him finish.

THE WITNESS: The first I come on the dice is when I searched him and found them in his sock.

MR. ROSS: Q. You say when Mr. Simone swore as to that under oath, he was lying?

A. I wouldn't call him a liar.

Q. Are you agreeing with him?

A. No, I am not. There must be a mistake some place.

Q. There must be a mistake. You subsequently gave evidence in the police court, when he was charged with keeping a common gaming house?

A. Yes.

Q. Were there any other charges laid, aside from keeping a common gaming house, against Mr. Simone?

A. Not that I recall.

Q. There was a plea of guilty by Simone on the charge of keeping a common gaming house?

A. Yes.

Q. And were you not called to the witness stand by the Assistant Crown Attorney and put under oath and did you not give the facts?

A. Yes, sir.

Q. And Simone has said here that the person who gave evidence under oath, when he said he had found a pair of phoney dice in his sock, that he was committing perjury. What have you say as to that?

A. I did not commit perjury in my evidence.

Q. Well now ---

THE COMMISSIONER: Q. Were the two dice in the same sock?

A. Yes.

MR. ROSS: Q. Could you perhaps help us ---

THE COMMISSIONER: Q. Was he wearing garters, by any chance, or how were the socks held up?

A. I couldn't recall, my lord.

Q. You don't recall that?

A. No.

Q. Did you ask him for any explanation?

A. No, I did not.

Q. Why?

A. I couldn't say now,my lord.

Q. Well, was he taken down to police headquarters?

A. They were taken down, yes, to the North York office.

Q. And when did you next see Simone? At his trial?

A. I believe it would be the day of court.

Q. Did you and Von Zuben discuss this among yourselves, the finding of these crooked dice?

C/4 A. We may have mentioned it, but I don't recall discussing it at all to any great

degree.

Q. I should have thought you would have been shocked, finding the crooked dice. Is that a new experience for you?

A. Yes, actually, that wouldbe the first time.

Q. Yes. I would have thought that being shocked, you would say, "Simone, what do you mean by this? How did these crooked dice get in here?" or words to that effect. But you didn't do that?

A. No.

THE COMMISSIONER: All right.

MR.ROSE: Q. As a matter of fact, on the premises, Simone was told that he was charged with keeping a common gaming house.

THE COMMISSIONER: Q. Do you know?

A. I beg your pardon?

Q. Where on the premises?

A. I don't know, no.

MR. ROSE: Q. If you don't know, why is it in your report? Paragraph No.7:

"William Dominic Simone and
"Edward Miller, in the presence
"of each other and Sergeant
"George Wilson, were informed
"by Sergeant Von Ruben that they
"wouldbe charged jointly with
"keeping a common gaming house

"at the premises situate and
"known as Veterans Riverdale
"Social Club, Lot 14 and 15,
"Concession 4, in the Town-
"ship of North York on the
"15th day of December, 1953
"and each was given the official
"caution."

I presume that is the caution: "You are charged with keeping a common gaming house. Do you understand the charge, and have you anything to say in answer to the charge, etcetera" and to which Simone said, "I have nothing to say".

A. I would have to go by the report. I don't recall.

Q. Simone wouldn't discuss anything when he was told he wasbeing charged with keeping a common gaming house and did he have anything to say.

A. No.

Q. And then as far as Miller is concerned, he wasgiven the same caution and he said that he didn't understand it. And then it was ~~repeat~~ repeated to him and he also refused to answer any questions or make any statements; is that correct?

A. Yes.

THE COMMISSIONER: Q. Where did all

this take place?

A. According to the report. I would have to go by the report. I don't recall definitely.

THE COMMISSIONER: Show it to him, Mr. Rose.

MR. ROSE: I suggest ---

THE COMMISSIONER: Don't suggest where it took place.

MR. ROSE: All right. (Produced)

THE WITNESS: I don't believe I was present when this took place.

THE COMMISSIONER: Q. That is just what I was wondering. Then why did you put it in the report?

A. Well, it wouldbe part of the report.

Q. Yes, I suppose. Who would tell you?

A. Sergeant Von Zuben, as I recall, helped me with the report.

Q. You don't know, as a matter of fact, whether he was cautioned and refused to answer, or whether he was asked anything about the dice or anything else?

A. No. I would have to go by the report.

MR. ROSE: I believe Sergeant Von Zuben will be called.

THE COMMISSIONER: Sergeant Von Zuben may be called, but the witness is the man in the box.

MR. ROSE: Q. In respect to paragraph 7, does it not state that this questioning and the laying of the charge or the forming of the charge wasdone prior to the removal of the accused to the North York Police Station?

A. According toThis, it wouldbe before they were removed to the North York Police Station.

THE COMMISSIONER: Q. But you have no knowledge of it?

A. No, I don't recall.

MR. ROSE: Do you wish to adjourn, Mr. Commissioner? I will be some time with this witness.

THE COMMISSIONER: What time is it now?

MR. ROSE: Five minutes after twelve.

THE COMMISSIONER: We will adjourn now.

---Whereupon further proceedings were then adjourned until 2:30 p.m.

AA/JKT/1

---On resuming at 2.40 p.m.

---The witness resumed the stand.

---Examination by Mr. Rose continued:

THE COMMISSIONER: Is Mr. Rose here?

MR. ROSE: What was the last question?

THE REPORTER: I wasn't here at the last adjournment.

THE COMMISSIONER: I can't help you. I have forgotten what your last question was. I think you were asking him about the fact that Simone had been cautioned, said he hadn't anything to say.

MR. ROSE: Yes, that is right.

THE COMMISSIONER: The witness said he wasn't there when that happened even though it appears in the report.

MR. ROSE: Q. Now, Mr. Sheldon, in respect to this pair of dice that you found in Simone's socks, did I understand you correctly to say that one die had two three's on it and the other die had two four's on it?

A. That is right, sir.

Q. And do you recall the die that had the two three's on it, what number one of those three's replaced?

A. I do not.

Q. Then that would be the same answer with respect to the die with the two four's on it?

A. That is right.

Q. You spent a considerable amount of time in the Anti-Gambling Squad?

A. I had been on then just over two years then.

Q. And you know something about the way the game of craps is played, or dice?

A. Yes, a little bit.

Q. Would you agree with me that insofar as the game itself is concerned, that if a player throws a point that is a four, five, six, eight, nine or ten, the object of the game then is to throw that point again before he throws a seven?

A. That's right.

Q. And would you further agree with me that in an ordinary pair of dice that there is nothing wrong with, there are six ways of throwing a seven?

THE COMMISSIONER: Q. Do you know?

A. Not just offhand.

MR. ROSE: Q. You don't know offhand? Have you any idea what the substitution of an extra three on one die and the substitution of an extra four on the other, the percentage increase of the probability of throwing a seven would be?

A. I have no idea.

Q. No idea. And I believe that you told the Commissioner Mr. Simone was

continuously in your sight from the time you arrived, is that correct?

A. Yes.

Q. And would it be fair, then, to state there would be no opportunity for any other person to have handed him these dice so he might secret them on his person as far as you know?

A. As far as I know.

Q. Now, I see by your report, Exhibit 274-A, that on the night of December 15th you drove your cars almost to the building and then you approached the vestibule, entered the same, and found the next door leading into a reception hall locked. Did you have to go through a door?

THE COMMISSIONER: That is not my understanding of his evidence. The only door that was locked was the one that separated the interior of the building from the outside.

THE WITNESS: Yes, that is correct.

MR. ROSE: I was just reading from the report.

THE COMMISSIONER: I am only repeating what my understanding of his evidence here is.

MR. ROSE: I think it is probably the same thing, sir. You state in your report youdrove your cars almost to the building,

you approached the vestibule, entered same and found the next door leading into a reception hall was locked?

A. As I recall, the first door we came to we would be standing outside. That first door was locked.

Q. Where is this vestibule? Did it have a door on it?

A. I can't recall just exactly.

Q. Well, the door leading into the reception hall, where was that in relation to the vestibule?

A. The reception hall -- I would call it the porch.

Q. You call the vestibule the porch, is that what you are referring to?

A. Yes.

Q. Take it this way: You went through one door which was open?

A. The first door we came to was locked.

Q. The first door you came to?

A. The first door, yes.

Q. I see. And is that door you called out, "Open the door", and one of several persons in the hall opened the door?

A. One of the occupants in there stepped up and opened the door.

Q. When you called out, "Open the door", could you hear persons talking behind that locked door?

A. No, I couldn't.

Q. Why did you say, then, one of several persons in the hall opened the door?

A. We could see there were several.

Q. I see. Which one opened the door?

A. I do not know.

THE COMMISSIONER: Q. How could you see?

A. I could see through the glass.

Q. There was a glass in the door?

A. Oh, yes. I couldn't say who opened the door.

MR. ROSE: Q. When you say you could see several occupants, were those people standing behind the door?

A. Inside.

Q. How close to the door?

A. Very close. I would say five

AA/2 feet or so.

Q. And you state:

"Proceeding into the hallwy I turned "right along a corridor to a stair- "case leading to the second floor. "Several men were defending the "stairs at this time while several

"more were in the upper hallway."

Well, now, in respect to the staircase leading to the second floor was there or was there not a door there?

A. There was a door at the bottom of the stairs.

THE COMMISSIONER: Q. Open?

A. It was open.

Q. The door at the top of the stairs, and it was open? All right. Well, then, after you got through this door at the top of the stairs was there any other door before you got into the gaming room?

A. Not that I recall.

MR. ROSE: Q. Were men coming through that doorway leading to the second floor? You saw several men descending the stair at this time, several more in the upper hallway, that is descending the staircase which led to the second floor. Were there men coming through the open door at that time?

THE COMMISSIONER: Which? One of the top doors?

A. I couldn't say they were coming ---

MR. ROSE: The door on the staircase leading to the second floor.

THE COMMISSIONER: Q. The door on the bottom floor or on the top floor?

A. I couldn't say whether they were coming through the door. The first time I was up I recall passing men on the stairs.

MR. ROSE: Q. And there were more men in the upper hall?

A. Yes.

Q. "I made two left turns which "took me into a large room which is "situated over the garage."

A. I cannot recall.

Q. Let me ask you this, Mr. Sheldon: Had you participated in any raids on the Riverdale Club prior to December 15th, 1953?

A. I had not.

Q. Do you know if there were any raids by the Anti-Gambling Squad prior to December 15th, 1953?

A. I do not.

Q. Would Sergeant Von Ruben know?

A. I don't know.

THE COMMISSIONER: Don't ask him what he would know.

MR. ROSE: Q. Now, did you have occasion to examine and search the premises in fair detail?

A. No, I did not.

Q. Can you tell us whether or not there was a buzzer or alarm system installed on the premises?

A. I cannot.

Q. Did you search to ascertain if there was one?

A. I did not.

Q. Do you know if any other person did?

A. I do not.

Q. Now, when you went to the pool table where was Simone at that particular time?

A. He was opposite, on the opposite side to where I approached.

THE COMMISSIONER: Q. On the long side of the pool table?

A. On the long side.

MR. ROSE: Q. And the gentleman or the man who was handling the croupier rake, where was he?

A. I do notknow.

Q. Now, what was it, as far as you were concerned, that Simone meant when he called, "The rake, the rake", as you came in?

THE COMMISSIONER: Q. Was he handling the rake, do you know?

A. I could not say, my lord.

MR. ROSE: Q. In your report:

"Approaching the table I observed a "man directly in front of me with a "dice rake in his hand and in the

"loop end of the rake was a pair of
"red dice. Just as I made these
"observations a man standing at
"the side of the room, later
"identified as William Dominic
"Simone said, 'The rake, the rake'."

A. He would be wanting to get rid of the rake because it could be used as evidence.

AA/3

Q. After you felt the dice in Simone's sock you told him to take the dice out, did you not?

A. That is right.

Q. And what would be the reason for that? Because if you purported to take them out of his socks he might allege you had framed him with the dice?

A. No. If I am searching somebody, if I feel anything in their pocket, or any place, I like them to take it out on their own. I don't like to put my hands in people's pockets or in their socks.

Q. For what reason?

A. Well ---

THE COMMISSIONER: What difference does it make?

THE WITNESS: I just don't like to go that far unless I have to.

MR. ROSE: Those are all the questions

I have, sir.

THE COMMISSIONER: Have you any other questions, Mr. Wilson?

MR. WILSON: No.

THE COMMISSIONER: That is all, thank you.

---The witness withdrew.

MR. WILSON: Call Sergeant Von Zuben.

CLIFFORD VON ZUBEN, sworn,

THE COMMISSIONER: Q. What isyour age, Mr. Von Zuben?

A. Fifty-five, sir.

EXAMINED BY MR. WILSON:

Q. You are with the Ontario Provincial Police?

A. I am, sir.

Q. How many years have you been with the Force?

A. Twenty-three years.

Q. And what is your rank?

A. Staff Sergeant.

Q. And were you connected with the Anti-Gambling Branch in December of 1953?

A. I was, sir.

Q. What was your period of service with that branch?

A. Twelve years. From 1942 to 1954.

Q. And did you have the rank of Sergeant in 1953?

A. I did, sir.

Q. And when did you cease to be a member of the Anti-Gambling Branch?

A. The 31st of March, 1954.

Q. And what were the circumstances of your transfer at that time?

A. I was informed by the Commissioner

[illegible] VON ENGEN, sworn.

The Commissioner: [illegible]

Mr. Von Ensenf

A. Kitty-Five, sir.

[illegible]:

Q. You are with the Ontario Provincial Police?

A. I am, sir.

Q. How many years have you been with the force?

A. Twenty-three years.

Q. And what is your rank?

A. [illegible].

Q. And were you connected with the Anti-Gambling Branch in December of 1937?

A. I was, sir.

Q. What was your period of service [illegible]?

A. Twelve years. From 1925 to 1934.

Q. And did you have one year of [illegible] in 1933?

A. I did, sir.

Q. And when did you cease to be a member of the anti-Gambling Branch?

A. The 31st of March, 1934.

Q. And what were the circumstances of your transfer at that time?

A. I was informed by the Commissioner

of the day that there was a change of personnel, a change of command, and I would be transferred from the Branch.

THE COMMISSIONER: Q. To where?

A. I beg your pardon, sir?

Q. To where?

A. I was transferred to the Liquor Control Investigation Branch for a few weeks, then eventually to the traffic division.

MR. WILSON: Q. Did the then Commissioner give you any reason for the transfer?

A. Not at that time, sir.

Q. Did he later?

THE COMMISSIONER: Q. Who was the Commissioner?

A. E.V. McNeill.

Q. Did he later?

A. No. I just learned from a newspaper item that appeared some three weeks later what appeared to be the reason.

Q. I don't know how valuable that is. Tell us, then, what you did about it?

A. Well, I was instructed to report to Staff Inspector Bartlett, at that time in charge of the Liquor Control Board.

Q. Who instructed you, McNeill?

A. McNeill.

Q. Bartlett at that time was in charge of the Liquor Control Board Investigation

Branch?

A. Yes, my lord.

Q. You were asked whether you knew of any reason why you were being transferred from the Anti-Gambling Squad?

A. That is correct. I was not given a reason at that time, I was just informed there was being a change of management and I would report to Mr. Bartlett the following day, which I did.

Q. Were you informed later? Were you given any reason?

A. No, sir.

MR. WILSON: Q. Did the Commissioner, when he spoke to you, indicate he was not satisfied with the progress the branch was making?

A. He did not.

Q. He did not? You don't recall making a statement at that time to me on March the 14th of this year?

THE COMMISSIONER: Tell him the statement he made to you, if he did.

MR. WILSON: Q. Well, the statement he made to me, as I recorded it:

"On March 30th, 1954, Von Zuben was
"called into the Commissioner's office,
"was told he was being transferred
"from the Anti-Gambling Branch and that
"

"he, the Commissioner, was not satisfied "with the progress that had been made "by the branch."

A. I don't recall those words being used at that time.

THE COMMISSIONER: Q. Did you tell Mr. Wilson that recently?

A. I may have but I don't recall Commissioner McNeill using that ---

Q. Did you tell that to Mr. Wilson recently?

A. As I say, I may have.

Q. If you did, why would you if it wasn't a fact?

A. Only the fact that I cannot recall Commissioner McNeill making that or putting the statement in so many words.

Q. In substance, did he say that?

A. It is possible, yes, sir.

Q. What do you mean, "It is possible"?

A. Because I cannot recall the conversation at that time between the Commissioner and myself, my lord.

Q. Apparently when you were talking to Mr. Wilson you did recall the substance of it. If Mr. Wilson is rightyou told him within the last matter of weeks.

MR. WILSON: Months.

THE COMMISSIONER: Q. Months. In March

of this year. The Commissioner told you he was transferring you because he wasn't satisfied with the progress the Anti-Gambling Squad was making. Did you tell that to Mr. Wilson?

AA/4 A. I did. If Mr. Wilson has that recorded, that is the result of my interview with Mr. Wilson.

Q. You wouldn't tell him something that was not true?

A. No, sir, I would not.

Q. Then the Commissioner did say that to you?

A. I would say yes to that, my lord.

MR. WILSON: Q. Around about the time you were transferred out of the Branch was Cronin transferred out?

A. Yes, sir.

THE COMMISSIONER: Just a moment. All right.

MR. WILSON: Q. You are familiar with the Veterans Riverdale Social Club in Downsview?

A. Yes, sir.

Q. And prior to December 15th of 1953, you had been on raids on those premises?

A. On one previous occasion, sir.

Q. What was the date of that

previous raid?

A. September the 17th, 1953.

Q. And that particular raid, was it a raid by your Branch or in association with the North York Police?

A. In association with the North York Police Officers.

Q. Was the one in September quite an elaborate raid?

A. Yes, sir. In numbers.

Q. Yes. And on that occasion did you have any difficulty in getting into the premises?

A. I cannot recall the circumstances surrounding our entry on that occasion.

Q. And when you did get into the premises on that occasion what was going on on the premises?

A. I don't recall the circumstances too well. I know there was no evidence obtained of the premises being used as a common gaming house on that occasion, but I don't recall the surrounding circumstances.

Q. Now, on December 15th, 1953, how did it come about that you conducted a raid on the same premises?

A. On the morning of December the 15th, 1953, while on duty at the Anti-Gambling office, 295 Sherbourne Street in Toronto, I

received an anonymous telephone call from a male person that resulted in my being made aware that there would be a dice game in progress at the premises of the Vets Riverdale Club that night. As a result I instructed Provincial Constable Miller to take out a search order and as there were only three of us on duty in Toronto on that date I again enlisted the aid of the North York Police Department through Inspector George Wilson.

Q. Did the North York Police know where they were going to raid when you made the arrangements to meet with them?

A. Other than Inspector Wilson.

Q. And did your men, Miller and Sheldon, know where you were going?

A. Certainly Miller did.

Q. Miller did?

A. Yes, because I instructed him to take out the order to search.

Q. Now, when you got to the premises of this club on the evening of December 15th, how did you get into the premises?

A. We had driven in.

Q. First of all, who did you drive to the premises with?

A. I left the Anti-Gambling Office with Sheldon and Miller and proceeded to

rendezvous with Inspector Wilson and whatever officers he was bringing with him. That was on North Dufferin Street. We then proceeded in the two cars to the premises in question.

Q. Who were in the car that you proceeded in from that point?

A. I believe I was joined by Inspector Wilson at that time, although I can't be too certain.

Q. Who else would be in the car?

A. Sheldon and Miller.

Q. Yes. Before you reached the premises had there been any discussion about the possibility of a revolver being found on one of the persons who might be there?

A. None that I recall, sir.

Q. And was there any discussion as to who one might expect to be the operator of the game?

A. No, I cannot recall that.

THE COMMISSIONER: Q. Do I understand you were in the car with Sheldon?

A. Yes, sir.

Q. Somebody stated that some one there would possibly be carrying a revolver but you don't remember that?

A. I do not remember, my lord.

MR. WILSON: Q. When you got to the premises how did you gain entry?

A. We left the cars and approached the entrance and I found the door locked. I recall rattling the door handle and calling out, "Open this door, what the hell's the matter?", and some one on the inside opened the door. We then entered the premises and the main body of us made directly for the second floor.

Q. Could you see in through the glass on that occasion?

A. I can recall seeing forms. Whether the glass was clear or possibly frosted, but I remember some one approached from the inside and opened that door.

Q. Did the premises have a signal service, a buzzer and a signal service?

A. That I can't say.

Q. You can't say?

A. Not at this time.

Q. Did you make no examination?

A. Not at that time.

Q. At any other time?

A. Not by myself.

Q. Well, did any of your men make an examination and report to you?

A. Not that I recall, sir. I know that much, that I can remember that the windows had the same type of heavy screens that we had been meeting up with on other

premises throughout the province.

Q. Well, after you entered the door that was locked was any alarm given by any one?

A. No, sir.

Q. Nobody shouted out, "The police are here"?

A. Well, we lost no time.

Q. I know. I grant you you lost no time. Nobody shouted out, "The police are here"?

A. Not that I heard.

Q. And you then proceeded directly upstairs to the gaming room?

A. That is correct, sir.

Q. And did you find any other doors locked?

A. No. We had direct access right through to the room.

Q. And when you reached the gaming room was the game still in progress?

A. It was, sir.

Q. Then what did you do when you reached the gaming room?

A. I took up a position on the side of the table opposite to where Mr. Simons had been standing and directed my attention to a man at the right end of the table, one Edward Miller. I concentrated on him and from my observations charged him jointly as a keeper

of a common gaming house with Simone.

Q. Did you know Miller before this time?

A. I may have. I may have had to do with him but cannot tie him in at this time.

Q. Did you know Simone before this time?

A. At least his name was familiar to me. I may have had his name involved on the previous occasion when we unsuccessfully raided the premises.

Q. Did you observe what Simone was doing when you entered the room?

A. As I recall it, he picked up a bundle of money and a chip rack and left the table and moved to his left, and was eventually brought back to the centre of the table by Constable Sheldon.

Q. Yes. And what occurred at that time?

A. The money and chips were returned to the table. Constable Sheldon asked Simone to empty his pockets, the contents of his pockets on to the table and then proceeded to frisk him, starting at his ankles, and as he progressed up his leg he stood up and directed Simone to remove something from his sock and put it on the table.

THE COMMISSIONER: Q. You say he frisked

him, starting at his ankles?

A. Yes. He went right down to the ankles.

Q. He frisked him starting at his ankles?

A. Starting up from his ankles.

Q. Coming up?

A. That is right.

Q. That is not the usual way that officers frisk a man, is it?

AA/5 A. Well, as a general rule, my lord, in those types of premises we just ask them to empty the contents of their pockets.

Q. Yes. We are still talking about frisking. I don't know too much about this, but if you are looking for some one who you suspect is carrying a gun you don't start down at the boot tops?

A. Well, in my experience I have never had occasion to go over any one for a gun.

Q. It seems logical to me, if you are looking for a man supposed to be having a gun on his person, you don't start at his boots?

A. Actually I personally wasn't looking for a weapon.

Q. From your experience and knowledge as a police officer do you agree with me? You

would frisk his hips and his pockets first, I should think. Would you agree with that?

A. I agree with that.

Q. Yes. But Sheldon started down at the boot tops?

A. Yes, I saw Sheldon ---

Q. That is where he started?

A. That is correct.

Q. That is where the dice were?

A. In the sock.

Q. In the sock, not the top of the shoe?

MR. WILSON: Q. From where you were standing could you observe the feet of Simone and that part of the frisking that occurred, you might say, where he started at the bottom?

A. No, sir, I could not, because I was on the opposite side of the table from him.

THE COMMISSIONER: Q. Why did you tell me a moment ago that is where he did start?

A. He went right down to the floor and started to come up.

Q. Then you could observe what he was doing to that extent at least?

A. Well, just the fact he dropped out of my sight. He asked Simone to produce the dice.

MR. WILSON: Q. After he came up he then asked Simone to produce the dice?

A. That is correct.

Q. What did Simone do?

A. Simone produced the dice.

Q. Did he reach down?

A. As I recall, yes.

Q. Could you see where he reached down?

A. He justreached down out of my sight.

Q. Out of your sight? And he came up with?

A. A pair of dice.

Q. A pair of dice? Can you tell from where he got those dice whether it was from the floor or from his socks or where?

A. Not where I could see, no.

Q. No. And thenwhat happened with the dice?

A. Sheldon examined the dice and then threw them across the table with the request that I look at them and they proved to be a pair of six-spots. In other words, they were not ---

Q. Simone brought them up from a point which was below your vision?

A. That is right.

Q. And then did he hand them to Sheldon?

A. Either handed them to Sheldon or set them on the table in front of Sheldon. Sheldon looked the dice over and threw them across the table.

Q. And asked you to look at them?

A. That is correct.

Q. Did you do so?

A. I did.

Q. What did you observe?

A. There were two threes on one die and two fours on the other.

Q. Did you ever see dice of that kind in any game you ever raided?

A. No. That was the first occasion. I have seen dice but not under that circumstance.

Q. Have you ever seen that type of dice in any game you have raided?

A. No, sir, I have not.

THE COMMISSIONER: Q. How many games have you raided in your life?

A. I could ---

Q. A hard question?

A. After twelve years on that particular type of work I couldn't estimate.

Q. Many, many?

A. Yes, my lord.

MR. WILSON: Q. Well, then, was any statement made to those people who were

assembled there about the dice by you or anybody else?

A. Having looked at the dice I was approached by one of the persons on the premises who requested to be allowed to examine them and I handed him the dice to look them over.

Q. Could you tell us who the man was who approached you and asked to look at the dice?

A. He is known to me as Bunny Dunlop.

THE COMMISSIONER: Bunny Dunlop?

MR. WILSON: Q. Al Dunlop?

A. I don't know his first name.

THE COMMISSIONER: Q. Who is he again?

A. He is a wrestling referee at Maple Leaf Gardens, my lord.

MR. WILSON: Q. Had you known him prior to this time as a person who frequented gaming establishments?

A. No, sir.

Q. Then did Dunlop make any statement to the people who were there?

A. He did make a very threatening statement to Simone.

Q. What was the threatening statement that he made?

A. That he wanted $15,000 or he would break every blankety, blankety bone in

Simone's body.

THE COMMISSIONER: Q. Just a moment. Threatened Simone and demanded?

A. $16,000.

Q. What did Simone say?

A. I cannot recall.

Q. I suppose Dunlop accused him of using these phony dice?

A. That was the inference, my lord.

Q. I suppose the inference would be $16,000 had been lost by Dunlop?

A. That is the way I took it.

MR. WILSON: Q. Was there anything else apart from the picking up of all the evidence that you required for the purpose of your prosecution?

A. No, sir.

Q. Did you advise Miller and Simone that they were to be charged, and were they warned?

A. That is correct. In the presence of Inspector Wilson they were informed that they would be charged jointly with keeping a common gaming house at the premises in question. They were given the usual caution and eventually removed to the North York Police Station and released on bail.

THE COMMISSIONER: Q. Were they ever threatened with any prosecution for any other

offence arising out of that raid?

A. No, my lord.

MR. WILSON: Q. Did you have a call from Mr. Rose, sitting here?

A. I do not know Mr. Rose.

Q. Did somebody call you yesterday and identify themselves as Walton C. Rose?

A. Walton Rose, yes, sir.

Q. What did he want to know?

A. He mentioned that Mr. Simone had given evidence under oath before this inquiry and that they didn't believe the truth of the statements, and informed me that I was being subpoenaed to give evidence. He questioned me about the door being open and informed me that Mr. Simone had intimated the dice had been planted.

MR. WILSON: That is all, thank you.

THE COMMISSIONER: Mr. Rose?

EXAMINED BY MR. ROSE:

Q. I believe I told you I got your phone number from Chief Inspector Harold Graham?

A. That is correct, sir.

Q. And I believe I also wanted to know who the officers were on this raid on December 15th, 1953?

A. I identified Constable Sheldon.

Q. Mr. Sheldon. Then you were going to call Chief Inspector Graham, I believe, after I was speaking with you?

A. That is correct.

Q. As a result you were subpoenaed here to-day and Mr. Sheldon was?

A. Well, I'm here.

Q. On the raid on September 17th, 1953, dare you obtained no evidence on which to lay a charge, you say you don't recall how you originally made entry into the premises?

A. No, I do not recall at this time whether it was a forced entry made or whether -- there was a large number of officers present. In fact, that was a unitedeffort between the North York Police Department and ourselves and the only occasion on which we had such a number of uniformed police officers and I

cannot recall the circumstances at this time.

AA/6 THE COMMISSIONER: Q. Who initiated that first raid, the O.P.P. or the North York Police?

A. I believe it was the North York Police, my lord.

MR. ROSE: And when you went on the raid on September 17th, did you follow substantially the same procedure that you did on the raid of December the 15th?

A. No, sir. We approached the premises from the rear through fields on that occasion on foot for a considerable distance.

Q. I see. I am talking about the time you made entry. Did you go down the corridor and up the staircase leading to the second floor?

A. Yes.

THE COMMISSIONER: That is the only way you could get to the second floor, I understand?

A. Yes, my lord.

MR. ROSE: Q. Was the door at the bottom of this staircase leading to the second floor open or closed on the 17th of September?

A. The 17th of September?

Q. Yes.

A. I can't say.

Q. Was the door at the top of the staircase open or closed on the 17th of September?

A. I cannot recall the circumstances at all.

Q. You never reported that raid? You have a report that was made in respect to that raid?

A. I would have to refer back to the files of that time.

Q. After you got inside of where the gaming room was, there is no doubt in your mind at all that Simone was the person who produced the two phony dice? This pair of phony dice, there is no doubt he had them in his hand? He was the one that produced them?

A. On the occasion of the raid on December ---

Q. The 15th of December.

A. 15th of December. Yes, sir.

Q. And he either handed them to somebody or laid them on the table?

A. That is correct, sir.

Q. And you say Mr. Sheldon took a look at them?

A. Yes, sir.

Q. And then he didn't say anything to you except, "Look at these"?

A. He said, "Take a look at these, Sergeant", and threw them across the table.

Q. Did either you or he or any other officer have a statement to make to the assembled gathering, "Look at what kind of dice you have been playing with"?

A. I may have made that statement as I handed them to Dunlop.

Q. Did you say this to Dunlop or to the gathering?

A. Well, Dunlop was standing right beside me.

Q. At the time that Mr. Sheldon threw the dice over to you and said, "Take a look at these, Sergeant", could Simone hear him?

A. Yes, sir. He was just right directly the width of a table away from him.

Q. And did Simone say anything at the time that Sheldon told you to take a look at them?

A. I do not recall any statement by Mr. Simone at that time.

Q. And after you looked at them and showed them to Dunlop, did Simone say anything when you told Dunlop, "Look at the type of dice you have been playing with"?

A. Dunlop became quite aggravated.

Q. Did Simone say anything at this

particular moment?

A. I cannot recall.

Q. Did he say anything after Dunlop threatened to break his bones unless he got the $16,000 back?

A. I just cannot recall.

Q. I see. Now, it was right in the premises that you arrested Simone on a charge of keeping a common gaming house?

A. That is correct.

Q. I believe you told us you gave him the official caution?

A. That is right.

Q. He understood the charge, and did he have anything to say in answer to the charge?

A. That is correct.

Q. Did he have anything to say in answer to the charge?

A. I do not recall. I don't know whether ---

Q. You have had occasion to read this report, this Exhibit 274-A?

A. Not to any degree.

Q. Paragraph No. 7.

THE COMMISSIONER: Q. Who made the report?

A. Constable Sheldon, my lord.

Q. Did you help him?

A. It is quite possible.

MR. ROSE: Q. See if this recalls anything to your mind, Mr. Von Zuben.

"William Dominic Simone and Edward "Miller, in the presence of each "other and Sergeant George Wilson, "were informed by Sergeant "Von Zuben that they would be "charged jointly with keeping "a common gaming house at the "premises situate and known as "Veterans Riverdale Social Club, "Lots 14 and 15, Concession 4, "in the Township of North York, "on the 15th day of December, "1953, and each were given the "official caution to which "Simone replied, 'I have nothing "to say'."

End of quote.

Having heard me read that Paragraph 7 to you, is your memory at all freshened?

A. Not from what appears there.

Q. Do you agree or disagree with the statement?

A. I agree with the statement.

Q. Now, I notice that you said to the learned Commissioner that in respect to the dice that one dice had two threes on it and the other die had two fours on it, is

that correct? Just to keep things straight, usually a die has only one three on it?

A. That is correct.

Q. Or one four on it, is that correct?

A. That is right.

Q. Can you tell me in respect tothe die which had the two threes on it, what number was replaced by the second three?

A. No, sir.

Q. You can't? Nor, I suppose, can you, in respect to the die with the two fours on it?

A. No, sir.

Q. And I believe that you described the dice to the Commissioner as being mis-spots?

A. That is a term that is used to describe dice of that type.

Q. And I would presume -- correct me if I am wrong, if you know -- with dice of this type there would be a better chance of a shooter selling out than with ordinary dice?

A. The chances of throwing a seven, the fact there is two threes on one die, two fours on the other, I'd say the chances were twice as good of him throwing a seven.

Q. At least twice as good?

A. At least twice as good.

THE COMMISSIONER: Q. I don't know anything about crap games, but from the little bit I have gathered from this hearing and heard people talking, is my understanding right that when a player is given the dice and he throws them and it is a seven, does he win?

A. On the first throw.

Q. On the first throw?

A. Yes, my lord.

Q. I see.

A. I can't qualify as an expert in this.

Q. Well, that is my understanding.

A. Yes.

Q. You seem to think perhaps I am right. I suppose the odds of throwing a seven the first time would be greater if there are two threes on one cube and two fours on the other?

A. That is correct,my lord.

Q. Well, then, by the same token, if he throws a five or on the first throw he has to make a five before he throws a seven?

A. That is correct, to win his point.

Q. To win his point?

A. That is correct.

MR. ROSE: Those are all the questions I have.

EXAMINED BY MR. WILSON:

Q. There were other pairs of dice found in the gaming room on that occasion?

A. I believe there were, sir.

Q. Were they on the floor?

A. I believe there was one pair on the table that had been in use in the game.

Q. Were there other dice apart from that?

A. I believethere were but I can't say.

AA/T

Q. Was there anything wrong with any of the other dice apart from the ones that were found in the way you have described?

A. Not to my knowledge.

MR. WILSON: That is all, thank you.

MR. LAWLOR: My lord, may I ask a question?

THE COMMISSIONER: I am sorry, I have forgotten your name.

MR. LAWLOR: Mr. Lawlor.

[illegible]

Q. Where were Sunday morning in Good Friday in the evening from the Good Morning?

A. I believe Sunday morning, yes.

Q. Where were you on Good Friday?

A. I believe Thursday morning I was in the Dublin Lunatic Asylum in Grand Canal Street.

Q. Were there other lunatics apart from others?

A. I believe there were two.

Q. Had there been any trouble with any of the other other people from the same ward in the way you have described?

A. Not to my knowledge.

MR. PIGGOTT: That is all, thank you.

MR. LAWLOR: My Lord, may I use a question?

THE LORDS JUSTICES: I am sorry, I have forgotten your name.

MR. LAWLOR: Mr. Lawlor.

EXAMINED BY MR. LAWLOR:

Q. Could you tell us any more about the anonymous telephone call you got? I understand it simply said there would be a game in progress that evening. Is that as much as was said?

A. To the best of my recollection now. There could have been. This is almost nine years ago and I am going stricly from memory.

Q. Were there any names mentioned as far as you can recollect?

A. Not that I can recall.

THE COMMISSIONER: Q. Except at this particular premises?

A. That is right. The premises was named.

MR. LAWLOR: Q. Simone's name wasn't mentioned?

A. It may have been.

Q. Was the conversation fairly long?

A. No, it was very short.

Q. Do you know either Mr. Feeley or Mr. McDermott?

A. I am acquainted with seeing them, yes.

Q. You have never spoken to them?

A. I have had occasion to.

Q. At that time, or subsequent to that

time?

A. I had no reason to talk to them on that particular occasion. Neither one of those two men were there on that occasion.

Q. Would you know them in 1953?

A. Yes, sir.

Q. And would you feel that the voice on the telephone was disguised or would you be able to tell either one of those voices if you heard it?

A. I couldn't attempt to identify that voice.

THE COMMISSIONER: Q. In all your history of raiding, all the time you were on the Anti-Gambling Squad, have you ever on any other occasion got an anonymous call tipping you off there would be a dice game at a certain place at a certain time?

A. Yes, my lord.

Q. Is that familiar practice?

A. It was over the years I was in the Anti-Gambling Branch. In fact, we obtained good results from anonymous information, both written and telephoned.

Q. As to the game at a definite time?

A. Well, not an hour, but they would say "to-night" or ---

MR. LAWLOR: Q. Were you on the Squad

for twelve years?

A. That is correct.

Q. Had you any reason during that time, and particularly after, say, 1948, to believe there were any leaks in your department?

A. Well, eventually I was forced to the conclusion.

Q. "Eventually" was when?

A. Possibly in 19-- the most solid instance was about 1953.

Q. What was that instance?

A. I am just saying about 1953. I would have to refer to specific files now to make that concrete date.

Q. And what was that instance?

A. A raid that had been -- at least, a situation that had been developed in regard to the Alpha Club in which two members of the Anti-Gambling Branch had been secreted in the garret of the premises over the gaming room and had been furnished with materials to make them comfortable as could be for a period of hours to eventually observe the operation of a bank dice game below them.

(Page 11595 follows)

BB/1/SW

And having successfully entered the premises and waiting a long period of hours they were uncovered by two persons who came on to the second floor, searched the premises, and eventually uncovered the two men in the garret.

MR. LAWLOR: Q. That is prior to any dice taking place?

A. That is prior to anyone, other than the two persons who were responsible for the play ---

Q. The men in the garret?

A. Yes,sir.

Q. And you said eventually, and you mean that there were indications prior to that time which would have aroused your suspicion?

A. Not so much indication, just an odd hint here and there, and in fact during the years we had been receiving tips that the squad was active in a certain area during the night, which when checked out, was proved not to be the fact. We couldn't always go on the information at that time coming back to us.

Q. Yes?

A. On one particular occasion I remember we received information that the squad was in the City ofSt.Catharines, when, to actual fact, they were operating that same night

down in Eastern Ontario.

Q. Whose squad?

THE COMMISSIONER: The gambling squad.

THE WITNESS: The anti-gambling squad, sir.

MR. LAWLOR: Q. Did you know - I suppose you worked very closely with Sergeant or Constable Cronin at that time?

A. That's correct.

Q. That was over a period of many years?

A. Yes.

Q. What did Constable Cronin - did he have knowledge of the raid on the Riverdale Club of September 17th, 1953?

A. I cannot answer that. Not in September, I can't answer that.

Q. May he have been - he was on the squad at that time?

A. 1953, yes, sir, he was.

Q. I don't wish to embarrass you the least, but what, in your opinion, are the reasons why you were transferred?

A. Well, if I may be excused from answering that.

Q. I prefer the answer. I would prefer you to answer it, but it is up to the Commissioner whether you answer it or not.

THE COMMISSIONER: I think you should

answer that.

Q. You have you own opinion?

A. I have, sir.

Q. All right, what is it?

A. Actually, at the time Inspector Tomlinson was, although absent, was in effect the head of the branch and I had been instructed to operate in his absence as the officer in charge. With the passage oftime, Tomlinson was given control of the College which demanded his full attention, and it was at that time that I took over the active administration of the branch, and for a reason unknown to me, I have every reason to believe that Tomlinson possibly was perturbed with the situation as it eventually developed here in the Province, and he had approached the Commissioner without my knowledge, and as a result I was transferred from the branch.

THE COMMISSIONER: You said perturbed. He wasn't satisfied with the result, is that what you mean?

A. That is correct, and not ~~mmy~~ overlooking the fact that the various premises in operation at that time were in operation when he was, Tomlinson, actively at the head of the branch.

MR. LAWLOR: That is all the questions I have.

THE COMMISSIONER: Mr. Wilson?

MR. WILSON: I have nothing further.

THE COMMISSIONER: That's all.

---The witness withdrew.

MR. WILSON: Now call Ernest Midgely.

ERNEST MIDGELY, sworn

MR.ROSE: Mr.Commissioner, I appear as counsel for this witness, and I would inform the Commission that he objects to answer each and every question put to him on the ground that it might tend to incriminate him or make him liable to a civil action at the instance of the Crown or any other person, and rather than having to make that objection after each question, I wonder if it might be taken down for the purposes of the record that the objection has been made after the asking of every question.

THE COMMISSIONER: You heard what counsel said?

A. Yes.

Q. Do you, in anticipation, object to answer questions that might be put to you and might incriminate you?

A. Yes, I will go along with my counsel.

THE COMMISSIONER: All right, protection of the Act granted.

EXAMINED BY MR. KILBOM:

Q. You reside at --

THE COMMISSIONER: Just a moment before you get started.

Q. On what day were you -- you just recently finished a sentence?

A. Hm,hmm.

Q. Don't say "hm,hmm", say yes.

A. Yes.

Q. On what date did you - were you convicted?

A. I think the 28th of June.

Q. The 28th of June. Following your conviction, you were serving a term?

A. Yes, I was convicted and two months sentence and a fine.

Q. Well, prior to that you were out on bail?

A. Yes.

Q. For a considerable period of time?

A. Roughly seven months.

Q. Seven months. Now some time prior to the date that you were convicted, and when you were out on bail, did you telephone my home?

A. No, sir.

Q. You swear to that?

A. No, definitely - most definitely. My wife did bring about to me - and I said - I put it down to a crank. I didn't even think

there was any sense to it. I wouldn't have the nerve to start with.

Q. Well, I suppose your wife informed you that I communicated with her by telephone and said that someone who said he was Ernest Midgely had been trying to get in touch with me?

A. First she mentioned that someone else had called and I think later that supposedly you.

Q. Yes, I called her.

A. Well, I had no knowledge or no proof that it was you, and I just put it down as being a crank. I didn't think that that would be the method that you would try to approach me over the phone.

mm/2

Q. I didn't try to approach you.

A. Well, contact me.

Q. Well, someone telephoned me and represented themselves as Ernest Midgely and wanted to see me --

A. You can rest assured that it wasn't me.

Q. It wasn't you?

A. Definitely not.

Q. Oh, all right. Mr. Wilson.

MR. WILSON: Q. Where do you reside?

A. 33 Princeton Road in Etobicoke.

Q. How old are you?

A. Fifty-one.

Q. And when did you leave school - what schooling did you have?

A. I went through public school, and prior - part of a year in Central Technical School.

Q. And that was -- how were you employed?

A. Well, I was in the newspaper business for a few years and had quite a large newsstand. I worked for the Evening Telegram and the Globe for a few years.

THE COMMISSIONER: Q. In what capacity?

A. In the delivery - circulation.

Q. Oh, I see.

MR. WILSON: Q. Yes?

A. And I worked in the harvest out west on three different occasions.

Q. When did you get into the gambling business?

A. I fooled around with it, I guess, in the early 30's - thirty years ago.

Q. Well, what was the first operation that you were associated with, or had a piece of?

A. In my earlier days?

Q. Yes.

A. I was more of a bettor, and

become a croupier or dealer for quite a few years.

Q. I understand that, but then you progressed from that to the point where you --

A. Maybe in the 40's I was a small bookmaker and had small interests in floating crap games.

Q. Then, was your venture with McDermott and Feeley and Riggs at the Centre Road Club your first operation when you had put up part of the money for the bank?

A. I had put up money in floating games.

Q. Prior to that time?

A. Hm,hmm.

Q. Well, you did have some part in the club at Lenside prior to your venture in Cooksville, didn't you?

A. Not any part other than maybe being an employee.

Q. An employee there?

A. Hm,hmm.

Q. Now as to the Centre Road, we have been told that the partners were the persons I have named and yourself, and will you tell us when that relationship started and when it ended?

A. Well, I just guess at 1952, and

to the time the club closed,I would think was two years ago this spring.

Q. During that period ---

THE COMMISSIONER: Just let him finish. 1952 the club closed and what?

A. Two years ---

MR. WILSON: Two years ago this spring, the witness said.

THE COMMISSIONER: That would be - just a moment. During those years from '52 until it closed, were you a partner?

A. I had interests off and on and I did have interest with the game.

MR. WILSON: Q. We have been told that the club closed down just after R.J. Wright's arrest.

A. Well, I would say around May of 1960.

Q. Well, he was arrested on May the 28th, 1960.

A. Well, I don't know whether it was at the end of or the beginning of May.

Q. Well, during that period, apart from McDermott and Feeley and Riggs, did anybody else have a piece of the operations?

A. Well, I had no knowledge of that. I done my business with Feeley.

Q. With Feeley?

A. Uh,huh.

Q. And was yours a definite percentage throughout or was it fluctuating?

A. It was fluctuating because I wasn't always there and I come late, and I would take different interests, and if it was a smaller game I might take a bigger interest, and in a bigger game a smaller percentage.

Q. Did any Americans have any part in the operation during the period '52 to 1960 out there?

A. Definitely not to my knowledge.

Q. In the Vets Club, did you take any part in the actual management of the club?

A. The charter?

Q. Well, did you have anything to do with the charter?

A. No, I had nothing to do with --

Q. Did you have anything to do with security?

A. Nothing at all.

Q. Did you have anything to do with the records or the membership records?

A. Oh, no, no, nothing, nothing, that was the club secretary, as I understood.

Q. Who was the person entrusted with the job of looking after the security out there during that period?

A. Well, from my viewpoint, it was

the strong doors and I guess it was between the janitor and maybe Mr. Feeley.

Q. In other words, his particular responsibility was to see that the doors were well taken or looked after and persons were on the door and so on?

A. Well, I wasn't there at the door. I was at the game, and that is the way it appeared.

Q. Well, who looked after the hiring of the help, the stickmen and dealers and so on?

A. Well, there were different members and they chipped in different nights and helped.

THE COMMISSIONER: Q. Well, who hired them?

A. Well, possibly I would ask for a little help if I needed it, if I was supervising the game.

Q. Well, where would you look for the help?

A. They would be in the club. They would be there either to play or to assist me in operating the game.

MR. WILSON: Q. And did you keep any records of what you won or lost over that period?

A. You mean an overall?

Q. Yes.

A. No.

Q. And did you make - how did you declare your income for income tax purposes?

A. Income tax purposes -- where should I start, at the beginning?

Q. Well, did you?

A. Yes.

Q. Tell us how you did it.

A. Well, about 1947 I was requested by the tax department to - for a net worth statement and to file for so many years and which I did. I had a tax expert help me - a consultant - and established whatever assets I had, and I later was assessed a certain amount of money and paid it. For a few years I filed under that as a commissioner broker admitting to accepting bets on baseball, football, hockey and horses, and I discontinued filing that way and I am not positive of the year, but I went to work for a mining promoter around '50.

Q. 1950?

A. 1950, and I had a couple of unfortunate years gambling so I discontinued filing.

Q. What way did you file after that date?

A. As an employee of a mining

promoter.

Q. How long did you continue to file on that basis?

A. Right up until a year ago this spring, last May or June, and the promoter left Toronto and went to Vancouver, so our position ---

Q. Well, were you paid a salary by this promoter?

A. Yes.

Q. Did you get accumission over and above that?

A. No, so, I didn't work on a commission. I was on a drawing account actually.

Q. Well, then, did you on your income tax returns, being associated with this promoter, declare your winnings on your gambling?

A. I didn't have any winnings.

THE COMMISSIONER: From what year?

A. Well, from just guessing, I know that a couple of years, '48 or '49, or '50, weren't very good. I was fortunate to make something on stock and through the '50's, through the 50's I filed as my tax consultant suggested, my earnings, and all my investment income.

MR. WILSON: Q. Now what was your net worth, as determined by your tax consultant,

in 1947?

A. Well, I am guessing now because I haven't any record of it. I would think that I -- I think it was in the right neighbourhood of $70,000.

Q. Who was your tax consultant at that time?

A. Irwin Taylor.

Q. Here in Toronto?

A. Yes.

Q. And did he continue to act for you as tax consultant?

A. After he brought me up to date, no.

Q. And after that, did you have assistance in preparing your income tax returns?

A. Yes.

Q. From whom?

A. In recent years, Cliff Lawrence.

Q. Yes, we heard of him. And who was this promoter who employed you over these years?

A. N.T.P. O'Sullivan.

Q. When did you say he left Toronto?

A. He moved to Vancouver roughly a year ago this May.

Q. Now when you started in at the Centre Road, you were aware of that, shortly

after or round about that time, McDermott and Feeley had a part in some Simone's operation at the Veterans Riverdale Club?

A. I wasn't aware - I didn't know that.

Q. You didn't know that at all at any time?

A. No, sir.

Q. Well, they didn't disclose that to you that they had an interest in Simone's operation in Downsview?

A. They didn't disclose anything to me, other than our actual involvement in our games.

Q. Now what was your first association with the Jordan Club?

A. Well, it was brought to my attention that they were forming the club/or branch in downtown Toronto and I related that I wasn't at all interested.

Q. Who was "they" who brought it to your attention?

A. Robert McLaughlin.

Q. At that time they were operating on Eglinton?

A. I think they had been, yes.

Q. Is there any other person than McLaughlin that brought it to your attention?

A. No, McLaughlin was the one that

I directed.

Q. Did you become a member when it operated downtown?

A. Yes, I'm pretty sure.

Q. Did you have a share of the operation there?

A. Eventually when they opened it, McLaughlin suggested that there was an interest for me and I took it.

Q. What year would that be, approximately?

A. Very vague -- I don't know what year it opened, but it would be the opening of the branch on Adelaide Street.

THE COMMISSIONER: And what were your interests?

A. Well, it varied over the years to about, I think -- I think Mr. McLaughlin suggested that I start with 15 per cent.

Q. You had a great interest in that later?

A. To a point I accepted another 7½ per cent responsibility which I was going to give a bonus to another party if there had been any game, but there didn't turn out to be any game, so just responsible for the other 7½ per cent.

MR. WILSON: Q. Now Riggs, Johnny Riggs was an associate of yours over the years

in these gambling enterprises?

A. Yes, we've been close.

Q. He has sworn that, at page 4561, that he had a financial interest in the Jordan Club with McDermott, Feeley, McLaughlin, yourself and himself.

A. Yes.

Q. How many years did that association continue?

A. Well, as I say, I assumed that McDermott and Feeley could have been associated, but I had no definite knowledge of it. As it turned out, there was another chap that attended to the other portion of the percentage with McLaughlin.

Q. Who was the other fellow that attended to the portion?

A. David Downs.

Q. David Downs, and you assumed that David Downs was there representing McDermott and Feeley?

A. Well, it was my first assumption. I didn't go into it or the question, and I didn't have any reason to know otherwise.

Q. Did you ever question it up to the present time?

A. Who to?

Q. To anybody, meaning Riggs and his evidence; a matter of a few months ago

he had said - that is May of this year.

A. Yes. He was under the impression or was that a definite answer?

Q. He stated definitely, and I read to you those partners.

A. Well, I say I would have thought so to a couple of years ago, but from what I have heard recently in the papers, that could be the other way.

Q. So you read the evidence of Feeley and McDermott in the paper?

A. Yes, naturally, and I wouldn't wan to say we were partners when I have no definite knowledge that they were.

Q. They were around the club, the Jordan Club, regularly?

A. Well, I think so. I didn't frequent the Jordan Club very often - very, very rarely.

Q. You just had your money running for you there?

A. I left my investment with Robert McLaughlin and wouldn't have -- it wouldn't have mattered where I had gone,he would have looked after it.

Q. Well, Scottie Down - that is what his nickname was?

A. Yes, Scottie.

Q. Did he have any means of his own.

What was his background?

A. Well, I just don't know. I know of him and know him slightly.

Q. What did he do in the gambling fraternity over the years, to your knowledge?

A. I haven't too much knowledge of it until he joined this little set-up, and I think he was the sheet writer and looked after the figures, and he and McLaughlin attended to the whole 100 per cent.

Q. You have no knowledge of him prior to that time he became sheet writer?

A. I might have seen him shooting crap or at a card game.

Q. Now so far as that operation was concerned, did you have anything to do with the back ends that were used for the purpose of your operation?

A. At the Jordan Club?

Q. The Jordan Club.

A. No, sir.

Q. You had nothing to do with the actual management of the club?

A. No.

Q. That is the management of the gambling and gaming operation - and booking?

A. I had almost nothing to do with it, other than I had that little percentage

interest.

Q. To what extent were your financial investments in that club?

A. That would be a guess. I know we gave McLaughlin money on a couple of occasions. I think the first time it might have been $1500, but I am not positive.

THE COMMISSIONER: Q. And the next time how much?

A. I don't recall. It wouldn't be any more. It would be in that area of a thousand dollars.

MR. WILSON: Q. How often did you have financial settlement among those interests?

A. Well, unfortunately, I mean, - you mean game?

Q. Yes.

A. Unfortunately there wasn't any - didn't prove to be a good enterprise.

Q. It didn't prove ---

A. No, sir.

Q. How many years were you involved in that operation?

THE COMMISSIONER: 1952 to when it closed.

MR. WILSON: No, this is the Jordan Club. From the beginning untilthe end?

A. When did it close up?

Q. Well, --

A. When they convicted the charter of the club - when it was surrendered up until --

Q. Up until the time of the surrender of the charter?

A. Well, we had gradually been folding it up, but just couldn't fold it up overnight.

Q. Now after youfolded up the Centre Road Club, you operated at Jameson Avenue and Claude Avenue in the city, didn't you?

A. Well, what you would call back ends, yes, or recording back ends and a little partnership.

THE COMMISSIONER: Q. A what?

A. A partnership.

MR. WILSON: Q. Who were in that?

A. Just Mr. Biggs and myself.

Q. When he says that you had played to the extent of, say, $20,000 in a day, would you agree with that?

A. Well, it would startle me. I wouldn't have accepted it.

Q. There again, did you look after the books there, or keep track of what was going on?

A. Not -- to a point, kind of occasional periodically I would get a balance of the customers.

Q. Now that operation was finally

was finally
xxxxxxxxxxxx

terminated by a prosecution, wasn't it?

A. That's correct.

Q. Were you convicted in regard to that operation?

A. Yes, sir.

Q. And do you remember what year that was?

A. Well, we were arrested in November of '61 and convicted in June of '62.

Q. Then at this same time you were having this little partnership on Jameson and Claude. Did you also have an interest in the operation at 343 Frontenac Avenue in Oshawa?

A. Well, sir, 343 Frontenac Avenue, Oshawa, -- was never any operation there.

Q. What was there?

A. Well, it was a private apartment.

THE COMMISSIONER: Q. Who was it?

A. It was a lady resident in Oshawa.

MR. WILSON: Q. Well, that particular address, you say that was part of the Jameson Avenue operation - with the 343 Frontenac Avenue?

A. There was no connection with any kind of gambling with 343 Frontenac Avenue, other than me being there.

Q. Well, were you charged in respect to any offence so far as 343 Frontenac Avenue?

A. Truthfully, the officers would have to tell you that. I don't know what they put - they put plural - "betting houses" - and I don't know what houses they included in there.

Q. Well, certain documents were seized there, including an address book which showed payoff records in the sum of $260,000. Did you know anything about that?

A. That is mine, but it hasn't been explained properly. The balance sheet there as -- it hasn't set out the liabilities. The net figure - I can't understand that - it is just adding everything together in that book.

Q. I see. There were also other sheets there totalling the sum of $55,283.

A. That applies to that, too, I would guess that there were two sides to that payoff, and the collections, and it was balanced - if it unbalanced, there would be a net figure of maybe seven or eight thousand. $57,000 is putting the two figures together.

Q. Well, the records also suggested that persons or places in Calgary, and Winnipeg, were also involved in the operation. Were those betters or were those

part of your operation?

A. Part of the operation - I just tell you now that the partnership was with Riggs and myself, other than that we had no other associates, other than a worker.

Q. And I am checking on the sheet - there was "Cal".

A. And I do have a friend that done some betting, from Bay Street, and his name was Cal. There could have been somebody in Winnipeg over the years as a bettor.

Q. Well, also seized at that time were certain sheets which contained these figures, "Joe, 31, E. 13½." Now that would be the percentage list?

A. I would have to see that to recognize it.

Q. Well, the word "Joe" - you would recognize that?

A. Over the years at floating games there might be 20 people there, there might be six or seven of us elected to bank the game. I made a record of the percentages just for the night, and there was a number of different "Joes" over the period.

Q. Well, yes, did you -- did McDermott and Feeley have anything to do with the operation of Jameson Avenue?

A. No, sir.

Q. What was your net worth in 1961?

A. Around the year - '47 and '48, I had accumulated some stock ---

THE COMMISSIONER: Never mind about that - what was your net worth in '61?

A. I am just trying to guess at it ---

MR. ROSE: In referring to the net worth, the returns are being tendered to the Department ---

THE COMMISSIONER: Mr. Rose, we just want to know this man's net worth.

MR. ROSE: His net worth was computed for '61 ---

THE COMMISSIONER: Please, Mr. Rose.

THE WITNESS: I just didn't check --

THE COMMISSIONER: Just a minute, witness. You were asked a very simple question. Do you understand the question?

A. Yes.

Q. Do you understand how it was put?

A. Yes. But I don't know whether I could answer it accurately.

THE COMMISSIONER: Well, what was the question?

A. What my net worth was in 1956.

MR. WILSON: '61, I said.

A. '61.

Q. '61.

A. Oh, '61, I presented the Tax Department with a statement of my net worth at around $170,000.

Q. So that from '47 through '61, it has gone up approximately $100,000 as it was submitted?

A. Yes.

Q. And what was the pay - how did you get that added net worth?

A. I can explain that. In '47 and '48, I had accumulated some stocks quite cheap, and I know the next year or so I had a profit of about $75,000 with that, which I realized some in cash and continued trading with it, and to try to make it simple, a hundred and -- in 1953, I made roughly $100,000 on another stock - Gunner Gold.

Q. How did you know Papalia?

A. I have nodded and said "hello" but that is the extent of my knowing him.

Q. Well, Riggs told us in his evidence at 4531 that he knew Papalia through you and apparently you had introduced him to Papalia.

A. It could have been at a lunch counter - that's about the extent of my meeting him or seeing him.

Q. Now I take it as well that the

stocks you invested in and other securities and so on ---

A. Yes, in a small way ---

Q. The Blue Water Finance?

A. Yes, sir.

Q. How much did you put into that?

A. $5,000.

Q. Did you have any other business enterprises which you had invested in apart from stock which you say you bought?

A. Yes, I have personal loans out. I have a small mortgage left -- I had different mortgages over the years, but they have all been more or less discharged. I have an interest in a small truss roof prefab business. I have a small interest in a - in United Citrus Products Limited.

Q. Have you -- did you have anything to do with arranging any tipoff - at either Centre Road or Jordan?

A. Nothing about it.

Q. Do you know any of the senior legal personnel in the Attorney-General's Department?

A. I didn't know Kelso Roberts' name until it started coming out in the paper.

Q. Do you know any senior police officials in the O.P.P.?

A. No, sir, other than those that

may have visited the club at Cooksville.

Q. Did you ever pay any money to any of the officers directly or indirectly? for any protection?

A. Definitely not.

Q. Or tipoff information?

A. No, sir.

Q. Did you ever in any way, contact any official of the Attorney-General's Department and try to ---

A. No, sir.

Q. -- persuade them to assist you in your activities?

A. No, sir.

Q. What about the Gilbert mortgage of $87,000?

A. Gilbert?

Q. Yes, do you know about the Gilbert mortgage? Have you ever had a mortgage on the Gilbert property?

A. Now don't confuse me. I have a partner in the roof truss business with me - E. Gilbert - but there is no association of $85,000 mortgage there.

Q. Well, did you make a loan to Gilbert for $87,000?

A. No, sir.

Q. Did you make any loan?

A. Yes, sir.

Q. How much?

A. We are just trying to arrive at that now. I think it is around $24,000 or $25,000.

MR. WILSON: There is just one point here, Mr. Commissioner, I want to check.

THE COMMISSIONER: Yes.

MR. WILSON: That is all, thank you.

THE COMMISSIONER: Mr. Lawlor?

MR. LAWLOR: Yes, my lord.

EXAMINED BY MR. LAWLOR:

Q. Have you frequented any other gambling clubs in the Province?

A. What years?

Q. Any time .

A. Well, in the 30's, yes.

Q. All right, in the 50's?

A. For instance?

Q. For instance, have you ever been in the Rosedale Club in Windsor?

A. No, sir.

Q. Did you know - the Roseland, I am sorry - the Roseland, did you know Mr. Curly Gardner?

A. May I correct that, the Roseland

Club in Windsor, I'm - I was thinking you meant the club in Port Erie. I visited the Roseland Club - if it was the Roseland Club - one evening enroute to Florida about eight or nine years ago and stopped in Detroit, and Mr. Gardner took me to dinner and invited me over, and I went over one night out of curiosity.

Q. Now were you associated with Feeley and McDermott in the Vets Club at Cooksville - for what period of time?

A. As I said, I think from part of '50 up to - up to '60.

Q. You say that you don't know that either one of these gentlemen had an interest in the Roseland Club?

A. No knowledge of anything.

Q. They never discussed that with you at all?

A. No, sir.

Q. You do know, however, that it was the tipoff system with respect to the Vets Club in Cooksville, don't you?

A. I have no knowledge.

Q. No knowledge of that?

A. No, sir.

Q. Did you ever go into the Tisdale Club in Peterborough?

A. No, sir.

Q. The Downview Club?

A. No, sir.

Q. The Ramsay Club in Niagara Falls?

A. No, sir.

Q. Never been there?

A. No, sir.

Q. And did you ever hear of a club called the Finnish Club in New Toronto?

A. I have heard of it recently.

Q. Just recently?

A. Yes, sir.

Q. He never discussed the Vets Club in Cooksville?

A. Not in front of me, no, sir.

Q. Do you know what the words "trafficking of charters" means?

A. Not too clearly, no.

Q. Do you know where the charter came from for your Jordan Club?

A. I haven't the slightest idea.

Q. Have you ever been in the Finnish Club in New Toronto?

A. No, sir.

Q. Have you ever - did you ever hear Feeley or McDermott talk about the Finnish Club in New Toronto?

A. Not in front of me, no, sir.

MR. LAWLOR: Thank you very much.

MR. WILSON: I have no questions.

MR. ROSE: I have no questions, thank you.

THE COMMISSIONER: Thank you, that is all.

---The witness withdrew.

MR. WILSON: That is allthe witnesses I have for today, Mr. Commissioner.

THE COMMISSIONER: What time is it?

MR. WILSON: Ten after four.

THE COMMISSIONER: We will adjourn until Thursday morning at ten o'clock.

---Thereupon the hearing adjourned at 4:10 p.m. until 10:00 o'clock a.m. Thursday, October 4th, 1962.

VOLUME NO. 58

ROYAL COMMISSION

ON CRIME

IN ONTARIO

DAILY TRANSCRIPT
OF PROCEEDINGS

Date 5 October 1962

pp 11628 - 11833

Supreme Court Reporters
145 Yonge St.
Toronto

VOLUME 58

INDEX OF WITNESSES

INDEX OF EXHIBITS

THURSDAY, OCTOBER 4TH, 1962

A/1/AS

---On resuming at 10:18 o'clock a.m.

JOHN J. WINTERMEYER, Recalled

THE COMMISSIONER: You were sworn some time ago.

THE WITNESS: That is right, sir.

EXAMINED BY MR. WILSON:

Q. Throughout these proceedings, the Liberal Party has been represented by counsel, and I take it that the counsel for the Liberal Party has brought to the attention of the Commission all evidence, or facts that have bearing on question 2.

A. That is right, Mr. Wilson.

Q. That you know of. And also, in making this speech on November 29th, 1961, I assume that you had no thought of causing distress or embarrassment to any person or persons?

A. Mr. Wilson, I not only had no thought, but I specifically said I did not intend to. I had a responsibility as Leader of

the Opposition. I still have that responsibility.

Q. Now, on page 91 of the pamphlet, Exhibit 3, there is mention of a James Bay hunting trip, and in particular the names of five Detroit men are set out: William Tocco, Anthony Tocco, Jack W. Tocco, Vincent Nail and Dominic Corrado. And there is the statement that they were reputed leaders of the Mafia in Detroit.

Now, we have had no evidence to support that statement, and I ask you whether there is any further evidence on that point that is available, that has not been brought forward.

A. Mr. Wilson, I have no documentary evidence that I can personally bring forward.

I think you can consult with my counsel; with his assistance, I think there is substantive information that could be presented, to support the general observation that I made.

MR. MacKINNON: If I may help my friend ---

MR. WILSON: Now, we have been here for weeks and months, and I just want to know from this witness whether there is any further evidence that has not been brought forward on that point.

THE WITNESS: There has been no evidence ---

THE COMMISSIONER: Just a moment.

MR. MacKINNON: Thank you, Mr. Commissioner.

I am counsel, and I trust that I am

handling this to the best of my ability, to assist Mr. Wilson and you, sir. But on that particular point we do have - and of course this is something that is familiar; some of it is familiar to all of us - a chart showing the Mafia inter-relationship covering the Appalachian Conference. I know you, sir, are familiar with that. That is from police sources, which show these people as members of this syndicate; and for example, I have a copy ---

THE COMMISSIONER: That has not been introduced yet?

MR. MacKINNON: No. But if my friend is asking for further information, this is just a chart from the Toronto Telegram of April 24th, 1961, showing the Mafia syndicate relationship study, compiled by police officials in the United States, and I think you will see that I have circled in ink these particular people who were on this trip to Moosonee, and they are shown.

THE COMMISSIONER: I suppose in due course you will be introducing that as evidence?

THE WITNESS: We would be glad to.

MR. MacKINNON: If necessary. But of course I am not conducting the Commission; I am not Commission counsel, and I do not have any staff for this purpose. But I am quite prepared, as I have been throughout; and I have

given my information to Mr. Wilson. If he can follow this through - presumably a telephone call to the Telegram would let him know what police officials they got this from; and it would presumably follow. But I do not propose of course to conduct the investigation on the part of the Commission. My duties here are to assist you in every way possible, particularly in the examination of witnesses; and where information has come to me, and a lot anonymously, I have passed it on, some of it quite useful, some of it quite useless.

THE COMMISSIONER: Yes. We will be hearing something about that later on, I would assume?

MR. MacKINNON: I would hope so, from Mr. Wilson.

A/2

MR. WILSON: I assure you, Mr. Commissioner, we have made every effort to try to support that statement, and have not been able to turn up any evidence.

THE COMMISSIONER: It is suggested now that there is some?

MR. WILSON: Again, in due course there will be some proper evidence advanced on that point.

Q. Now, at page 104 ---

THE COMMISSIONER: What page, now?

MR. WILSON: I wonder if the witness could

have a copy?

THE COMMISSIONER: What page, I am sorry? What page of the speech is that reference to the James Bay hunting trip? Let me see Exhibit 3.

MR. WILSON: 91, Mr. Commissioner.

THE COMMISSIONER: Thank you.

MR. WILSON: Q. Now, on page 104 of the speech there are, on the left hand column - there is reference to certain telephone calls from Feeley. It starts with the paragraph:

" Deputy Chief Shrubb was a
"witness at the trial of Feeley,
"McDermott and Wright. He testified
"as to phone calls he received from
"Feeley,. . ."

and so on.

Now, down at the bottom of that column there is reference to alleged telephone calls to the home telephone number of, among others, Mike Tartaglia.

Is it not a fact, when Mike Tartalia, as he has told us in his evidence, read off your speech, he contacted you, and said that you apologized for an error in respect of the statement, that he was receiving calls from Feeley?

A. Mr. Wilson, may I take a moment to make this answer?

Q. Sure.

A. The observation that you made is not quite correct. My understanding is that evidence has been demonstrated in these hearings, Mr. Commissioner, that establishes that the statement that Mr.Wilson has made reference to immediately before is not technically correct.

I believe it is the only error in the whole speech that I know of.

My understanding is that evidence was given before you, Mr. Commissioner, to the effect that these several telephone calls listed in the second-last paragraph of page 104, to which Mr. Wilson has made reference, were in fact made from the home telephone number of the former Member of the Legislature, to these several people, and were not made from the Fenley number.

Now, in speaking of Mr. Tartaglia: Mr. Wilson, it is true that Mr. Tartaglia visited my office immediately after, or very shortly after the 29th day of November. At that time I did not know whether the statement - I did not know that the statement was, as I now know, incorrect.

I told Mr. Tartaglia the same as I have told you: That it was not my intention to hurt anyone; and I told Mr.Tartaglia to

exercise his God-given right to get up and demonstrate that the statement was not correct.

I did not take the position before Mr. Tartaglia that the statement was correct or incorrect. I told him that I had a responsibility, as Leader of the Opposition, to bring this matter to public attention, and that in all conscience I did the best job I possibly could; and that I did. And I told Mr. Tartaglia that if I had caused any harm, or any inconvenience, I certainly apologized, and I feel that way today.

Q. Take it that practically the same thing is true about the other ---

A. I would think so.

Q. Just a moment.

A. All three.

Q. Mr. Houck?

A. That is right, I would think so. And, as a matter of fact, my recollection is that when Mr. Houck wrote to me over the same - at least, his daughter wrote to me, I expressed myself in the same vein.

Q. But you, based on the information someone gave you, in fact made the statement ---

A. That is right. When I made the statement, I believed it to be true.

Q. Did you take any steps to check the accuracy of the statement?

A. Now, Mr. Wilson, I took extraordinary steps. I think that in all probability, that that will be one of the very few instances that you can demonstrate when I was technically incorrect in my speech, that that will indicate that some thought, preparation and consideration was given to this.

Q. Now, there is another matter in the speech that I want to draw your attention to, and that is page 103; the paragraph after dealing with Dewsbury's ointment; there is a paragraph that ---

THE COMMISSIONER: I am sorry, I have not got it.

MR. WILSON: Page 103; the second half of the right hand column.

THE COMMISSIONER: Starting with "Perhaps"?

THE WITNESS: Yes.

MR. WILSON: Q. (Reads):

" Perhaps the Honourable "Attorney-General would be good "enough to tell the House, Mr. "Speaker, what the gamblers and "their friend Mr. Cronin were doing "with a license to manufacture a "drug preparation which cannot be "found in the marketplace. Or is "this another matter which would "not be pursued, because of the

"untimely termination of Constable "Scott's investigation?"

A. Yes.

Q. What is your opinion there as to the jurisdiction the Provincial authority has, in matters of patent medicines, such as the Dewsbury's ointment?

A. Well, I presume that you are suggesting that this matter is of Federal jurisdiction; isthat it?

Q. I would think so.

A. I would think that you are right in that respect.

The observation I was making, of course, was that it does seem extraordinary that Mr. Cronin, who was a former O.P.P. officer, should subsequently be associated in partnership with MaDermott and Feeley; and I think I was giving expression to that thought.

Q. Yes. I think you will agree with me that this falls in the ---

A. Technically.

Q. -- under the Federal authorities.

MR. ESTEY: That very question has gone before the Supreme Court of Ontario; this minute the very question as to what is the area of control, properly attributable under the C.M.A. Act, to the Province, and what is the proper area of control under the Federal Government, is being argued. The

Pharmacy Act of Ontario is in issue; and the Food and Drug Act of Canada.

I suggest that my friend should not ask Mr. Wintermeyer to guess what the Supreme Court of Ontario is going to say.

THE COMMISSIONER: It does not make very much difference, so far as I am concerned, whether it is Federal or Provincial.

MR. ESTEY: No.

MR. WILSON: Q. On page 88 ---

A. I beg your pardon?

Q. On page 88 of the speech, on the right hand column, the paragraph starting, "I propose to ask and to answer five questions.. ."

Now, the third question reads:

" What evidence is therethat "professional gamblers have had, "and may still have protection from "police and public authorities?"

THE COMMISSIONER: Just a moment. I have not got that, Mr. Wilson. Page 88?

MR. WILSON: Page 88, the right hand column. The first paragraph starting on that column, "I propose to ask . . .".

THE COMMISSIONER: "five questions". Yes.

MR.WILSON: I read the third one; they are not numbered.

THE COMMISSIONER: Just a moment, till I get to the third one.

MR. WILSON: (Reads):

" What evidence is there

"that professional gamblers have

"had and may still have protection

"from police and public authorities?"

Now, it is quite easy to understand what is meant by "protection from police" and we have had evidence directed to that point; and then you come to another category, "public authorities".

Now, who would be embraced by "public authorities"?

A. Well, Mr. Wilson, the paragraph to which you have made reference is of course the broad outline of the whole speech; the said five questions that I have outlined there forms the basis of the subsequent speech.

They are the directives, at the very outset of the speech.

Now, specifically you say, what are the public authorities, or who are the public authorities to whom I made reference?

They, of course, are subsequently listed in the speech.

Q. Then, let us go to page 101, on the left hand column, the third paragraph on that page.

" I come now, Mr. Speaker, to

"my third question."

A. Yes? (looking at document)

Q. (Reads):

" What evidence is there that "professional gambling has had and "still has protection from the police, "and law enforcement agencies?"

Now, I take it that you are using the words "law enforcement agencies" there as synonymous with the words "public authorities" which you used at page 88?

A. I would think so.

Q. There follows, in the transcript, some pages; and putting aside the question of any protection from the police, I want to know whether I am right in saying that there are only three instances where public authorities are mentioned: The first that I find, and correct me if I am wrong, is on page 102, the first paragraph, commencing on the left hand column.

A. (Looking at document)

Q. Starting with the sentence, "There has been evidence . . ."

and:

"There has been evidence that "~~John~~ Don Scott and an unidentified "Member of Parliament in the "Niagara Peninsula received some "money to take the pressure off "the club in Niagara Falls and "the Niagara Falls area."

Now, I think that is a reference to ---

A. That is right.

Q. To a law-enforcement agency?

A. Yes.

Q. And why did you use that term?

Now, you have followed the hearings here, and the evidence given at this hearing? Do you know of any further evidence to support the allegations made against Scott?

A. MR. Wilson, I do not. I think that you know, better than I, that the reference to which I made - the reference I had in mind, of course, was the evidence given in court.

(Page 11641 follows)

B/JRT/1

MR. WILSON: Q. Yes?

A. I think that in one of the several references that preceded the 29th day of November this very evidence was given. I was alluding to it.

MR. MacKINNON: You so state in your speech.

THE WITNESS: That is right.

MR. WILSON: Q. Did you before making this statement about a public official in your speech make any check to try and determine whether there was any truth in the allegation?

A. I think we made all reasonable search, Mr. Wilson. A terrific amount of effort and preparation went into this speech.

Q. Well ---

A. And if you are asking me specifically did I speak to Mr. Scott, I did not.

Q. No, but apart from some reference in what is known as theScott diary, do you know of any other evidence or fact?

A. No. I think, Mr. Wilson, that I specifically said that what information I had I outlined in the speech. I have no additional information except what has been given to my counsel. I consider it to be the responsibility of yourself now to proceed from the point.

THE COMMISSIONER:

Q. Where you left off?

A. Exactly, Mr. Commissioner, if I may put it that way.

MR. WILSON: Q. At page 102 I think we come to the next reference. On that same page we come to the next reference to a public authority on the right hand column, the second last paragraph. We are talking about protection in this particular part of your speech:

"Mr. Speaker, why were these "entries in Constable Scott's diary "not introduced in evidence?"

THE COMMISSIONER: Wait a minute, I haven't found that page. Page 103?

MR. WILSON: Page 102, two-thirds of the way down, starting with:

"Mr. Speaker, why were these "entries in Constable Scott's diary "not introduced in evidence? No doubt "the hon. Attorney-General may say it "was all hearsay evidence, but not the "sortof thing to be read in court "without the support of other evidence. "When then, Mr. Speaker, were many "of the matters which I have given "to this House read into evidence? "Most of them, the reference to "Lawrence, to Lamoric, to Cronin, to "Bartlett, and so on, were on the same

"legal footing as the references which
"were not disclosed. The references
"to Stringer and to Wright were
"substantiated by other evidence
"but the remainder were not. Why then
"were some put in and others not?
"I suggest the answer is very
"clear. Constable Scott's investigation
"lasted nearly four months, from
"February to May of 1960, his purpose
"was to ingratiate himself with the
"gamblers, gain their confidence and
"to eventually deal with them on a
"face-to-face basis, so that
"incontrovertible evidence could be
"secured. The provincial police
"no doubt set great score by this
"investigation. Here were big-time
"gamblers who had evaded conviction
"for years; finally the police had
"succeeded in planting an under-
"cover agent in their midst.
"The information Constable
"Scott gathered during those four
"months was undoubtedly valuable
"but obviously the police felt he
"had by no means exhausted all the
"possibilities especially the
"possibility of face-to-face contact

"with the gamblers. Mr. Speaker, there
"has been absolutely no suggestion that
"Constable Scott's true purpose was
"discovered by the gamblers. That
"being the case, and recognizing that
"the police themselves would want the
"investigation to continue, what
"conclusion is possible but that it
"was stopped on the orders of the hon.
"Attorney-General?"

Now, before making that statement, did you make any check on the circumstances leading up to the termination of the investigation?

A. Well, Mr. Wilson, with your permission may I ask the indulgence of Mr. Commissioner for a moment? I think that very substantive justification was at hand for making this particular statement. I must say that reading the whole speech I think it is a rhetorical question to ask. I want to assure you, Mr.Commissioner, that there was substantive justification for it. The point that I now want to allude to, Mr. Commissioner, is simply this, that I feel as a matter of honour and conscience, Mr. Commissioner, that I should not divulge the specific persons who provided me with information. I think, on reading this speech,

the sources are implicit -- yes, explicit -- right in the speech. I think it is demonstrated time and again where the information comes from. I think the purpose of this Commission is to determine the accuracy of the statement and not the sources. Now, I realize Mr. Wilson is not specifically at this moment asking about sources.

MR. WILSON: I will be coming to it.

THE WITNESS: Mr. Commissioner, it does seem to me that at an early time I should advise you that as a matter of conscience and honour I feel that the Leader of the Opposition, by his office and by virtue of his position, is necessarily the spokesman of discontent. That is his historical position. I have vacated every single protection that I have and I want to do that as a result ---

THE COMMISSIONER: Q. You have what?

A. I have vacated every civil protection that might normally be afforded to me as a Member of the Legislature or as Leader of the Opposition, but it does seem to me there is a responsibility incumbent on me to protect the integrity of the Legislature and of this historical position, and I do not think that I should divulge the actual names of the persons who supplied

me with information that founded some of the statements.

Q. You haven't been asked to.

A. Exactly, Mr. Commissioner, but now I might say this, Mr. Commissioner, Mr. Wilson is now asking me about the investigation that I conducted with respect to this particular paragraph and it occurred to me that I should make and should advise you of that thought before this specific question isasked or directed to me; to ask the exact names of the persons that supply me with information. I feel, Mr. Commissioner, that an examination of the speech would demonstrate that that particular question asked in the paragraph to which Mr.Wilson has made reference is a rhetorical question as a result of the information that is presented in the speech itself.

Q. Just a moment. It is a rhetorical question.

A. Exactly, if you want to interpret it in that fashion.

Q. You say, "What conclusion"?

A. That is right.

THE COMMISSIONER: Just listen to me for a moment. You are all excited.

MR. WILSON: I am not excited.

THE COMMISSIONER: Q. "What conclusion is

possible but that it was stopped on the orders of the hon. Attorney-General?" I suggest to the witness that is a rhetorical question and I think he agrees?

A. I do.

Q. Now, you haven't yet been asked but you anticipate it?

A. I anticipate it, Mr. Commissioner.

THE COMMISSIONER: You haven't been asked the source of any information. I don't know whether Mr. Wilson proposes to ask you the source of the information but we will cross that bridge if and when he does.

MR. WILSON: Now, in the paragraph immediately prior to the one I just read, there is this statement:

"An entry concerning a meeting "of Scott, Wright and Lawrence on "May 17, 1961, reported that Lawrence "said senior official of the hon. "Attorney-General's department was "receiving $800 a month from the "gamblers."

I take it that you gave great, grave consideration to casting aspersions on a senior official in the Attorney-General's Department before you included that in your speech?

A. I certainly did, Mr. Wilson.

May I ask you specifically where is that?

Q. Well, it is just immediately prior to the paragraph I read to you.

THE COMMISSIONER: Q. It is the right hand column.

A. Oh, yes.

MR. WILSON: Q. Now, in the way that that reads, when we read that with the paragraphs that follow leading up to, ". . . what conclusion is possible but that it was stopped on the orders of the hon. Attorney-General?", is the suggestion to be taken there, or the inference to be drawn, that because there was some such statement about a senior official of the Attorney-General's Department that this investigation by Scott was terminated?

A. Mr. Wilson, my understanding is that that particular reference is one of a series and simply identifies in detail the Scott diary. What I had in mind was to demonstrate that the Scott diary did include, and specifically included, certain statements. I want you to know that I gave grave consideration to this matter. I don't think anything ever caused me so much soul searching as that particular matter because I, too, am very cognizant of the great service of our public officials. I felt, however, that this was a matter to be

brought to public attention. You will note that I did not allege that $800 was paid to any senior members of the Attorney-General's Department. I simply allege that such a statement was included in the Scott diary. Now, I feel again, as I said before, that I had a responsibility to make that information public. I did so. I think now it is the determination for yourself to ascertain whether or not that is in fact true. I can tell you that I have no further information to add.

Q. You have no what?

A. I have no further information in respect to that particular matter.

Q. Well, I direct you to my original question, and that was the way it appeared in the context. I was asking you whether or not the information to be drawn from this portion of the speech is that the investigation was terminated because of a reference to a senior official of the Attorney-General's Department.

A. Well, I think that inference certainly can be drawn, Mr. Wilson. I think I specifically said in this portion of the speech that certain entries of the Scott diary were put in evidence and others were not, and I asked what I believe is, as

I said a little while back, a basically rhetorical question, "Why was this terminated?"

Q. Well, we have had in evidence here that the particular reference that I have just read about the senior official which does appear in the Scott report was not brought to the attention of either the Deputy Attorney-General or the Attorney-General until after a decision had been made to prosecute Wright. And did you know those facts when you made this speech?

A. No. Mr. Commissioner, what information has been brought forth here in this hearing would be in addition to any information I had. The information I had was the Scott diary and the entries.

Q. Did you have anything else but the Scott diary on that point?

A. Well, Mr. ---

THE COMMISSIONER: I think he said not.

MR. WILSON: That he had nothing?

THE WITNESS: Oh, no.

THE COMMISSIONER: Let's see, what point are you making? The $800 a month?

MR. WILSON: That is right.

THE COMMISSIONER: He said he had no further information.

THE WITNESS: That is right, Mr. Commissioner. In respect tothat I do not.

MR. WILSON: Q. Well, now, on page 103 on the left hand column, about half way down the page, it starts:

"Mr. Wintermeyer: Mr. Speaker, I have "taken great precautions . . ."

THE COMMISSIONER: Just a moment. I haven't found that. Page 103?

MR. WILSON: The left hand column.

THE COMMISSIONER: The left hand column?

MR. WILSON: That is right.

THE COMMISSIONER: Yes.

MR. WILSON: "Mr. Wintermeyer: Mr. "Speaker, I have taken great precautions, "I am much concerned about this matter. "I will give the hon. Attorney-General "every opportunity. All I ask is "that he give the public of the "province the opportunity of an "impartial investigation."

Now, tell me what precautions you did take before you included a statement about a senior official in the Attorney-General's Department having been in receipt of $800 month from gamblers?

MR. MacKINNON: With respect ---

THE COMMISSIONER: Just a moment. That is not quite right. He doesn't say that a senior official in the Attorney-General's Department was receiving $800 month. He

said an entry in the Scott diary said that.

THE WITNESS: Very much so. This is essential, Mr. Wilson.

MR. WILSON: Q. Quite. I don't want to in any way distort the picture but before you included that entry in your speech, what precautions did you take when you say you did take great precautions? What were they?

MR. MacKINNON: May I interject, Mr. Commissioner? What possible relevance has that got to this Commission except a political hatchet job, if anything else? What possible relevance ---

THE COMMISSIONER: I don't want any political sword dancing here, either from you or Mr. Wilson.

MR. MacKINNON: That is precisely what I am asking not be done.

THE COMMISSIONER: As far as I am concerned there shall be none. I want the facts. If this witness has any information he can supplement, I want to know what it is. This is neither the time nor the place for political propaganda.

B/3

MR. MacKINNON: Thank you, Mr. Commissioner. That is just my point.

THE COMMISSIONER: All right. Now, I have told you what I think.

MR. MacKINNON: I am just asking for a

ruling on this particular question because it can have no relevance on any question or issue to assist you in any way.

MR. WILSON: Well, Mr. Commissioner, is the witness to answer the question?

THE COMMISSIONER: Will you repeat it?

MR. WILSON: I asked him what great precaution he took before he included this entry about an official, a senior official in the Attorney-General's Department.

THE COMMISSIONER: All right.

Q. Will you answer it?

A. Yes, Mr. Commissioner. Mr. Commissioner, I must ask your indulgence for just a moment to give you a little of the background. The fact, Mr. Commissioner, is that this speech was made on the 29th day of November of 1961. The preparation of this speech and the accumulation of information extended over approximately six months. I believe basically May of '61, the spring of '61, is when the matter of public concern came dramatically to public attention. You will recall, Mr. Commissioner, the Blustein beating. You will probably, Mr.Commissioner, recall that subsequently there were many, many instances which attracted public attention relating to alleged organized crime. Many people came in to see me, many people brought

information. Now, as a result of everything that was presented to me, Mr. Commissioner, I felt an obligation to make the Scott diary public information and I feel that I was justified in doing so. I acknowledge that I did not specifically talk to senior officials of the Attorney-General's Department before doing so. In fairness, I think that those officials, if given an opportunity, would have given me an opportunity to discuss this matter. On the other hand, I felt at that juncture that I had accumulated enough information and that enough honest, conscionable concern had been expressed to me to publicly identify the Scott diary. That I did, Mr. Commissioner, and you will note that the speech does not allege anything more than an allegation that the Scott diary included certain specific entries relating to the senior officials.

MR. WILSON: Q. Well, you will agree with me a statement of that kind would place the Attorney-General's Department under a cloud until ---

A. Until an investigation was made, of course.

Q. Yes. Now, on the next page I think we have a reference to another public official or a member of the enforcement agency.

104, the left hand column, the third paragraph from the bottom, starting with the word "Peterborough", and I read the last sentence in that paragraph:

"Calls to the home telephone number "of a senior official of the Ontario "Attorney-General's department, "whose name was also noted."

What precautions did you take before including that statement in your speech?

A. Mr. Commissioner, the same answer that I made is applicable here. Now, my recollection is that this is not in reference to the Scott diary but in fact to a statement by Mr. Shrubb. My recollection is that Mr. Shrubb, in evidence before this Commission, gave the same evidence so I presume you are not disputing the accuracy now of the statement.

Q. Oh, no, I am not.

A. And as far as the investigation that I made, it is of the same nature that I alluded to in conjunction with the other statement.

Q. There, again, I take it you didn't see fit to speak to the particular individual?

A. No, I did not. I must acknowledge that and, Mr. Commissioner, I want there to be no misgivings about this matter. At one stage in this preparation I had to make the

determination, is it wise to speak to those people to whom reference was made or not? Now, I have said that this was not a spur of the moment thing, I wasn't handed a speech and read it or anything of that sort. This was a long series of preparations and I at one juncture made the determination that my duty required me to make the speech and that I might prejudice my position by specifically talking to any persons who were referred to in the Attorney-General's Department. I assume that responsibility, Mr. Wilson. That I did.

Q. Now, I think the final reference you make to any public authority under this Question 3 appears at page 105 on the left hand column. It reads:

"Now, Mr. Speaker, the provincial "police did raid the Centre Road "veterans club at Cooksville on "November 24, 1954, and seven of the "34 found-ins were held overnight "at Brampton and brought under oath "and in camera the next morning by "Crown Attorney Davis before "Magistrate Blain. Legal counsel "for the club was present and allowed "to cross-examine. During these "proceedings, Mr. Speaker, Mr. Davis "received a message to call the hon.

"Attorney-General's office. He did

"so and was instructed to --- "

And then there was an interruption. I don't think there is any purpose in reading that. The last paragraph in this column:

"Mr. Wintermeyer: --- "

Is there a correction on that? We have the correction.

(Page 11675 follows)

c/1/bo'H

MR. MacKINNON: My lord -- I think, Mr. Commissioner, you have the correction.

THE COMMISSIONER: Yes, I have. Have you the correction there?

MR. WILSON: Yes, I have, Mr. Commissioner.

THE COMMISSIONER: I don't know whether the witness has or not. If you would just look at that.

MR. WILSON: The concluding words I read: "He did so and was instructed to", should read, "He did so and was instructed to discontinue the investigation immediately."

Q. Now there, I take it, that you had a source for that information?

THE COMMISSIONER: He states the source.

MR. WILSON: No, I don't think he states the source there, Mr. Commissioner.

THE COMMISSIONER: I thought he did.

MR. WILSON: No. I think I have covered ---

Q. Before we leave that reference to a public authority, what precaution did you take there before you made the statement in effect that the Department of the Attorney-General ---

A. This ---

THE COMMISSIONER: Just a moment. Let him finish the question.

THE WITNESS: I am sorry.

MR. WILSON: Q. The Department of the Attorney-General had terminated the investigation.

A. Mr. Wilson ---

THE COMMISSIONER: You are asking what precautions he took?

MR. WILSON: Yes.

THE WITNESS: The same type of precaution, Mr. Wilson, that I referred to heretofore. Mr. Commissioner, I want to be as helpful as possible, and if it be of any help to you, it is my recollection and understanding that an examination of the police records would indicate that this particular statement is included in the police records. Now, I think that certainly justifies, again, the public revelation that there may -- that ~~[illegible]~~ demands that this matter be made public. I am not alleging that in fact such was the case, but I do say I took, firstly, great precaution; and secondly, if you want to know, the information, actually from my recollection, does come from police records.

MR. MacKINNON: I think I should point out, Mr. Commissioner, Sergeant Anderson and Corporal Shrubb both swore ---

MR. WILSON: We are not arguing that.

THE COMMISSIONER: We are aware of that.

MR. WILSON: I think I have covered all the references under your question 3 that you propounded and answered that deal in any

way with public authorities.

You made it clear in this speech, you were not making charges against anybody, but we have read the speech and there are inferences in the speech, of course, directed to individuals. Do you agree with that?

A. Mr. Wilson, I simply tell you this, and you may interpret this as a re-statement of what I have already said, but I considered it my responsibility to make the information outlined in this speech public. I realized of course that it would cause some people to be put under a cloud, as you have said, until such time as a public investigation was conducted. I feel now as I felt then, a genuine responsibility to do this. I do not want you to infer or suggest or leave the inference that I did this without due consideration, without great concern and without a conscionable understanding of what was being done.

Q. And the speech, the purpose of the speech, was to bring about an examination of these matters by a Royal Commission?

A. Exactly.

Q. And we have the Royal Commission. I am sure that you want the Royal Commission to have the best evidence possible that bears on any of the points covered by the terms of reference.

A. Yes, not only the terms of reference,

Mr. Wilson, I want the best investigation possible.

Q. But you want the best evidence, too?

A. Yes, the best evidence. I am not here to charge, as I said before, any man, but I am here determined to do my job and exercise my responsibility.

Q. I take it, in making this speech, in what you did say in this speech, you were basing it on what was said by other persons, informers?

A. There is no question of that. It must become quite apparent I wouldn't acquire any of this information of my own personal knowledge. I had many people assist me, of course.

Q. I take it on the substance of what is said, that these informers would be closer to the facts than you?

A. Yes.

Q. Now, that being so ---

A. It was my determination whether or not to believe these informers.

Q. I take it, you are desirous in assisting this Commission in every way in getting at the truth?

A. I certainly am, Mr. Wilson.

Q. Will you tell me the names of your

[illegible]

informers so we can call them and get their evidence and see if there is anything they can add?

MR. MacKINNON: Now ---

THE WITNESS: I am sorry.

THE COMMISSIONER: We have come to the bridge.

MR. WILSON: Now we have come to the bridge.

THE COMMISSIONER: What do you say, Mr. MacKinnon?

MR. MacKINNON: This is completely irrelevant to this Commission. This is what I say. I also say, as the witness has pointed out, that the source of this evidence is obvious. We have already had and gone far beyond it. I think the purpose of this question is to determine how he got it. Mr. Erwin said, and I wondered when Mr. Wintermeyer was being called, and I adopt this. He said the greatest crime of Mr. Wilson's employers ---

THE COMMISSIONER: The greatest what?

MR. MacKINNON: Crime or evidence, I think he used the word evidence, not that there might be allegations of crime of a corporation, but who squealed, who talked. That is the important thing to get to. I submit with respect it is quite irrelvant to this Commission

to maybe crucify some other public servant who, out of obligation to the public, felt that maybe he should reveal these things, and out of concern. Now, what purpose would be served to reveal any name or names, because the witness has pointed out the source. That is obvious. It comes from Scott's diary. It comes from Shrubb's telephone list. It is obvious throughout. It comes from the Provincial Secretary's office, as Mr. Estey is asking.

THE COMMISSIONER: That is not quite the way Mr. Wilson has put it to this witness. At the moment, I said we have reached the bridge. This witness has said the information came from the Scott diary and police records and from evidence given at court proceedings. In substance, Mr. Wilson's question was this, and Mr. Wilson will correct me if I am wrong. You, Mr. Wilson, want the witness to say what other sources of information he had.

MR. WILSON: That is it exactly, Mr. Commissioner.

C/2

MR. MacKINNON: What other sources? Because he has given newspaper reports, and apart from what appears in the speech ---

THE COMMISSIONER: Oh, no. I thought I made myself clear. I will try again. The witness was asked with respect to sources of

information. You can't listen to me and pay attention to Mr. Greer.

MR. MacKINNON: I am sorry.

THE COMMISSIONER: If Mr. Greer will just postpone what he has to say to you, you and I can understand each other.

The Witness has said the information which he gave, and to which he gave in his speech, the source was the Scott diary, police reports, evidence given at the trial or in court. You suggested that there was further evidence, further sources or a further source, namely something in the Toronto Telegram on some date which you mentioned and which I have not heard about, apart from what you said. Mr.Wilson's question boiled down to this. What were the other sources of information that you embodied in your speech?

MR. MacKINNON: If he is asking for it in a general way, I have no objection, so long as it is not a case of requesting names. I am sure the witness is quite prepared to tell you in a general way. I think he is quite frank. Maybe I misunderstood the question. There is another important principle involved which I have not said anything about.

THE COMMISSIONER: Just a minute.

MR. MacKINNON: Yes.

THE COMMISSIONER: I am not shutting you off. We will come to that later on. You

have no objection about the witness naming, in a general way, without naming names?

MR. MacKINNON: Yes. And I think he has done it.

THE COMMISSIONER: Q. Have you exhausted that, Mr. Wintermeyer?

A. Well, Mr. Commissioner, as you have said ---

Q. No, just answer my question. Have you exhausted all you have to say, in a general way, in respect to the source of information you have?

A. I think so, Mr. Commissioner. From here on it would be naming persons.

Q. You say it would be naming persons?

A. Yes.

THE COMMISSIONER: Are you asking for the names?

MR. WILSON: Yes, I am asking for the names. We are here for the purpose of seeking the truth.

THE COMMISSIONER: I want you to demonstrate to me why it is necessary that he name names.

MR. WILSON: Well, reading the speech, there are certain facts inthe speech, statements in this speech that obviously don't emanate from the Scott diary or any alleged evidence in court.

THE COMMISSIONER: What arethey?

THE WITNESS: What are they?

THE COMMISSIONER: Don't you say anything, Mr. Wintermeyer.

THE WITNESS: I am sorry.

THE COMMISSIONER: What are they?

MR. WILSON: I have already given one instance this morning when I talked about the Mafia. That doesn't emanate from Scott's diary.

THE COMMISSIONER: I suppose so. It came just as much of a surprise to you as it did to me. There was something in the Toronto Telegram about the interest of someone in the States who was said to belong to the Mafia.

MR. MacKINNON: Incidentally, Mr. Commissioner ---

THE COMMISSIONER: Please.

MR. WILSON: Now, a further instance of that is another matter I referred to this morning, the November 24th, 1954 raid.

THE COMMISSIONER: That is what I have been referring to as the Brampton episode?

MR. WILSON: Yes, the Brampton episode.

THE COMMISSIONER: There was evidence given as to that. The source of that information is in the police reports.

MR. WILSON: I really have to go over the speech bit by bit, Mr. Commissioner.

THE COMMISSIONER: From the pattern of

your examination, I thought you had.

MR. MacKINNON: Yes, so did I.

MR. WILSON: I think, and it is obvious, that in the preparation of this speech, that more was relied on than merely the general sources that have been given by this witness.

THE COMMISSIONER: All right. What are they? Give me the instances.

MR. WILSON: Well, for example, there are numerous clubs referred to in this speech which have no source of the type mentioned by the witness. There are statements about persons involved in the operation of these clubs. Solicitors involved in the obtaining of charters for these clubs. All these matters are not based on the general source referred to by this witness.

THE COMMISSIONER: That is a pretty broad statement.

MR. WILSON: There are an awful lot of broad statements in the speech and I am simply asking the witness ---

THE COMMISSIONER: To name names.

MR. WILSON: If he has got somebody who is closer to the facts that we have not heard from, then these general sources that he talks about, that he should name them. And if we find that they have some evidence which will be helpful to this Commission, that they

be called.

THE COMMISSIONER: I think it is fair to put it that way, and I put this to you, Mr. MacKinnon. If this witness knows of any person whom he has good reason to believe has some knowledge of facts, either of which we have already heard, or of which we have heard nothing, I ought to know who they are.

MR. MacKINNON: And that has been my purpose throughout this Commission, sir, as you will remember. I have written a number of names of proposed witnesses. That is the sole purpose. My last a letter of September 27th, 1962. These are the people. Some of them since have been called and some have not, who I felt, as counsel, should be called to assist this Commission.

THE COMMISSIONER: Do you agree that this witness should tell me now if there are persons whom he has reasonable grounds for believing would help me in this investigation and to give me their names?

MR. MacKINNON: Can I give him this letter?

THE COMMISSIONER: No. I am asking you, do you think that is a fair position for me to take?

MR. MacKINNON: With respect, I don't think so. We have not come to question 3 where

be men like Blustein and people like that that should be called.

THE COMMISSIONER: Are you saying, in your view he should not give me the names of people whom he has good reason to believe could help me? Then I tell you, I definitely disagree with you.

MR. MacKINNON: I am not suggesting that for a moment, if he has some names that he can remember. All I wanted is that this is not the end of it. He is not counsel and I know a lot more than what he does of what is going on, and he is relying on me, as he has every right to do. But if he has some names that he feels should be called, then definitely he should mention them.

THE COMMISSIONER: I have not made my point clear to you yet. He may think definitely somebody should be called.

MR. MacKINNON: Yes, to assist you.

THE COMMISSIONER: Yes. That definitely certain people ought to be called. I am not in agreement all the persons whose names are put in the letter ought to be called.

MR. MacKINNON: You have not so advised me.

THE COMMISSIONER: I am telling you now.

MR. MacKINNON: But not which ones.

THE COMMISSIONER: I will tell you in due

course. If this witness has good ground - reasonable ground for believing Mr. X could contribute some information to me that would be of assistance to me in the investigation I am called upon to make, I think I am entitled to have that man's name.

MR. MacKINNON: Certainly. There is no argument on that at all.

THE WITNESS: Certainly, Mr.Commissioner.

MR. MacKINNON: I misunderstood. I thought this would be limiting this because he said one name and I would then subsequently ---

THE COMMISSIONER: I would agree with you that you probably know more about the proceedings that have taken place here than the witness, because you have been here and he has not. Then I will put the question to the witness.

Q. Can you give me now the names of any persons whom you have good reason to believe can give information to me that would be of value to me in the investigation that I am called upon to make and who have not yet been called?

A. Mr. Commissioner, frankly, I don't. The persons I would identify would not contribute to any additional information for this Commission.

Q. Then your answer is that you have

no names of any additional persons?

A. That is right. So we can understand one another, what I am saying is this. If I identified the persons, no additional information would come forward. I am only concerned with protecting, in my public position, the integrity and conscience of certain people that did give information to me of a confidential nature, and that information is before you now, Mr. Commissioner, and it is for you to determine whether it is accurate or not.

MR. WILSON: Q. In view of the witness's statement that any persons who may have given him information and if he did give the names and they would not assist you, then I won't press the matter.

There is nothing further can be added?

A. That is right, except to identify the personalities.

THE COMMISSIONER: That is what I understand the witness to say.

MR. WILSON: Yes.

THE COMMISSIONER: Then let us go on to something else.

MR. WILSON: That is all.

MR. MacKINNON: May I be allowed to reserve mine?

THE COMMISSIONER: Mr. Rose, have you

any questions?

MR. ROSE: I understand Mr. Lawlor has.

THE COMMISSIONER: Have you any questions, Mr. Rose?

MR. ROSE: Yes.

EXAMINED BY MR ROSE:

Q. Mr. Wintermeyer, you told Mr. Wilson at the beginning you had no thought of distressing anyone in respect to the allegations and information that was given forth in your speech in the Legislature. That is correct, is it not?

THE COMMISSIONER: Yes, that is what he said.

MR. ROSE: Q. And I presume at the same time, having regard to the composition of this speech, you felt the speech would distress persons; that is correct?

A. That is correct.

Q. Yes. And is that why you stated to Mr. Wilson you took extraordinary steps to check your information?

A. Yes, Mr. Rose. Mr. Rose, let me make this ---

[illegible]

Q. Mr. [illegible], you have [illegible] relation to the development, you had no knowledge of discussions [illegible] proposed to the [illegible] the information that was given [illegible] prior [illegible] in the [illegible]. That is correct, is it not?

The [illegible]: Incorrect is what he said.

Mr. [illegible]: Q. And I presume at the same time, having regard to the [illegible] of high speed, you did not speak with [illegible] [illegible] that is correct?

A. That is correct.

Q. Now. And in that has you [illegible] to Mr. [illegible] you [illegible] [illegible] to [illegible] [illegible]?

A. [illegible] Mr. [illegible], [illegible] [illegible]

THE COMMISSIONER: Let him ask the questions.

THE WITNESS: All right.

THE COMMISSIONER: We will get along far better if you just concentrate on the questions and answers.

THE WITNESS: Yes, all right, Mr.Commissioner. You can appreciate my position.

MR. ROSE: Q. May I ask what extraordinary steps you took to check your information?

THE COMMISSIONER: Just a moment. Haven't we pretty well covered that ground,Mr. Rose?

MR. MacKINNON: He has been asked that twice.

MR. ROSE: I gather no extraordinary steps have been taken.

THE WITNESS: Well, please ---

THE COMMISSIONER: Please. I don't care what you gather. If you have some questions to ask, ask them and don't make a statement.

MR. ROSE: I have a question. I don't see what extraordinary steps were taken to check the information.

THE COMMISSIONER: If I understand the witness, he has stated all the steps he took. Whether they are ordinary or extraordinary or commonplace doesn't make much difference, as far as I am concerned.

MR. ROSE: I was interested in the witness's statement that extraordinary steps

were taken.

Q. Now, in respect to certain matters mentioned in your speech at page 91, the left hand column, the second paragraph from the bottom, you said:

"There was testimony to indicate
"that two brothers named Iannuzelli
"of Niagara Falls . . ." --

In my copy it says, "New York", but I understand it was corrected to "Niagara Falls, Ontario",

". . . who preceded Feeley and
"McDermott as the Canadian bosses
"of the Ramsay Club, were members
"of the Mafia."

Now, would you tell me the source of your information as to the allegation that they were members of the Mafia?

THE COMMISSIONER: Just a moment. He is not saying they were members of the Mafia. He says there was testimony.

THE WITNESS: I am saying --

THE COMMISSIONER: Please, Mr. Wintermeyer.

THE WITNESS: I am sorry.

THE COMMISSIONER: You are like a race horse.

THE WITNESS: I apologize, Mr.Commissioner.

THE COMMISSIONER: All he says is that there was testimony to indicate. He is not

saying they were members of the Mafia.

MR. ROSE: Q. You are then, in referring to the testimony, referring to the testimony of Mr. George Scott?

A. Yes.

Q. It is based upon Mr. Scott's diary, I suppose, and you have read Mr. Scott's diary?

A. Mr. Rose, my recollection is that this evidence was given in a trial.

Q. That is correct.

A. Yes.

Q. And you have also read the diary?

A. Mr. Rose, I did not personally read the diary.

Q. I see. Somebody read the diary and reported to you the contents?

A. That is correct.

Q. And you would then also recall, would you not, in the contents reported to you, that this was a statement that Constable George Scott alleged that Police Constable Wright said to him?

A. My recollection is that you are correct.

Q. Yes. And do you have any other ---

A. Personally, no.

Q. Information aside from Scott's

diary, as to the truth of the allegation?

A. Personally, I do not.

Q. Do you know, as a matter of fact, what the Mafia is?

A. Do you?

Q. I am asking you the question, Mr. Wintermeyer.

A. I think I have a pretty good idea.

Q. Perhaps you would tell me.

THE COMMISSIONER: Just a moment. If I understood the judgment of the Court of Appeal, Mr. Rose, you were to be here and permitted to adduce evidence and to examine the witnesses whose testimony might adversely affect those whom you represent. Do you represent Iannuzzelli?

MR. ROSE: I represent the Iannuzzellis before you, Mr. Commissioner.

THE COMMISSIONER: I overlooked that.

MR. ROSE: Q. Forgetting the Iannuzzellis, the paragraph says that McDermott and Feeley were preceded by the Iannuzzellis as bosses of the underworld. It certainly has to do with them, anyway.

THE COMMISSIONER: Now, do you want him to start defining what the Mafia is?

MR. ROSE: Yes, I do.

THE COMMISSIONER: I am not going to waste time on that.

c/4

MR. ROSE: Going a step further. With respect to the chart which was in the Toronto Telegram on the 24th of April, 1961, have you had occasion to look at that?

THE COMMISSIONER: The what?

MR. ROSE: The chart, "Partial Mafia (Syndicate) Relationship Study", respecting the interlocking of the Mafia.

THE WITNESS: I saw the chart, Mr. Rose.

MR. ROSE: Q. Do you see that the names of the Immunsellis don't appear anywhere in it?

A. Mr. Commissioner, if I may say this. It is a long time since I have seen that.

THE COMMISSIONER: I suppose the document speaks for itself.

MR. MacKINNON: It is American and does not apply to Canada, sir.

MR. ROSE: Q. Page 91, also on the right hand column ---

A. I am sorry, Mr. Rose?

Q. Page 91, on the right hand column.

A. Yes.

Q. The second paragraph:

" There has been reference in "court to a James Ray hunting trip "which Joseph McDermott was supposed "to have made with two or three

"racketeers from the United States."

Stopping there. Are you correct? Are you sure you are correct in your statement that those gentlemen, whose names follow, were referred to in court as racketeers from the United States?

A. I can't recall. They were identified in court, Mr. Rose. I believe they were identified in court. I cannot recall and I do not know whether they were described as "racketeers". But, Mr. Rose, in my opinion, there is little doubt in the United States, particularly in the Attorney-General's Department of the United States, of the persons to whom reference was made were racketeers. If you have been following the situation in Detroit and Michigan, you will know on camera and television these people were identified and publicized more than I had ever publicized them in Canada.

Q. Was that prior to or subsequent to the time you made the speech?

A. Prior to the time I made the speech, I believe it was. I can't answer that, Mr. Rose. My recollection is that they were well identified to the United States public prior. Whether the T.V. performance was prior or not, I can't recall.

Q. Do I take it: "Two or three

racketeers", are your own words?

A. I think that is right.

Q. Do you know by this time that none of the gentlemen whose names are mentioned there, that is the three Toscos, Vincent Meli or Corrado, have criminal records in the United States?

THE COMMISSIONER: Q. Do you know whether they have or not?

A. I do not.

MR. ROSE: I beg your pardon?

THE COMMISSIONER: He says he doesn't know.

MR. ROSE: Q. Did you read in the newspaper the evidence of P.C. Fitzsimmons?

THE COMMISSIONER: What is the difference whether he read it? I heard it.

MR. ROSE: Q. So that the only reason you say McDermott accompanied two or three racketeers up to James Bay was because of information you evidently had from the Attorney-General's Department in the United States and what you have seen on the television and heard?

A. No, that is not. Mr. Rose, frankly, my understanding is that these gentlemen to whom you are referring, the Toscos and several of the others.

Q. And the Lannuzzellis?

A. Yes, who are mentioned on page 91,

are very well known to the police and to the public in the State of Michigan.

THE COMMISSIONER: Q. As what? Known to them as what?

A. I think they are publicly known as gamblers, Mr. Commissioner. I am not sure. public identification of the word "racketeer" has ever been made. I don't think I have done them any disservice, Mr. Rose.

MR. ROSE: Q. Now, dealing with a matter on page 103 that Mr. Wilson was talking about. The left hand column. The second paragraph:

" Mr. Speaker, there has been "absolutely no suggestion that "Constable Scott's true purpose "was discovered by the gamblers. "That being the case, and recognizing "that the police themselves would "want the investigation to continue, "what conclusion is possible but "that it was stopped on the orders "of the Honourable Attorney-General?"

Now, the only question I want to ask you - you told us that the Scott diary or the contents of the Scott diary were communicated to you by some other person. And do you recall in the Scott diary that at page 28 - did you ever look at the Scott report, aside from the Scott diary?

A. I have not seen the Scott diary or the Scott report.

THE COMMISSIONER: Q. What did you say?

A. I have not seen the Scott diary or the Scott report.

MR. ROSE: Q. Were the reports ever made to you by Mr. Scott before the investigation?

A. They were discussed by me, Mr. Rose.

Q. Let me ask you this. Under date of Friday, May the 20th, prior to the investigation, was this read to you, what Scott hadto say in his report?

"At this point of the investigation "I have arrived at a time when I "am actually counselling Lawrence "and Lamorie in their methods of "taking bribes. I feel that I am "lending myself to further incrimination "of these two men, to say nothing of "P.C. Wright, and for this reason I "feel that I should,with all due "respect, be advised as to whether "or not criminal charges are to "be preferred."

Do you recall ever having that read to you from Scott's report?

A. Mr. Rose, I recall that there was concern, I believe it has been expressed

in this Commission, about whether or not it would be advisable for Mr. Scott to continue the investigation because it might involve his association with a criminal act. Now this is a matter of judgment, Mr. Rose. I personally have felt that it would have been wise to let Mr. Scott continue.

Q. But will you not agree with me, having regard to these words, at that time a fair inference to be drawn is that Scott, himself, thought the investigation should be discontinued at that time?

A. Mr. Rose, you have more information and you have had the opportunity to hear Mr. Scott. Very frankly, you may have more knowledge and Mr. Commissioner, you would have more knowledge than I. I was not here during Mr. Scott's testimony. I simply defer to you. I made the statement, you will recall, Mr. Rose, on the 29th day of November.

Q. Now, beginning at page 105, in the right hand column, the third paragraph down. There is one point I must deal with and I do so most reluctantly.

THE COMMISSIONER: What page is that?

MR. ROSE: 105.

" There is one final matter "I must deal with in my remarks "at this time."

THE COMMISSIONER: In the right hand column?

MR. ROSE: In the right hand column.

THE COMMISSIONER: Thank you. I have it now.

MR. ROSE: Q. And then you go on to discuss in your speech the names of people in the hunting party at the James Bay Goose Club in the fall of 1958, and you mention one Mr. Monteith and go on to say or allege certain relationships between Monteith and Feeley and McDermott.

Page 106, in the second paragraph, you say:

" Mr. Speaker, Arthur B. Monteith
"has for several years been an
"employee, a customers' man with
"Davidson and Company. Mr. Speaker,
"the foreman of the jury which tried
"Feeley, McDermott and Wright was
"vice-president of Davidson and
"Company."

C/S

You mentioned about the defence counsel in another case being approached.

THE COMMISSIONER: I am sorry. I have not located all that. Are you still on 105?

MR. ROSE: I am now on 106, Mr. Commissioner.

THE COMMISSIONER: Oh. All right, thank you.

MR. ROSE: Q. You seem to imply that there was some sort of hanky-panky involved in

obtaining the judgment of a man who was vice-president of Davidson and Company being on the jury which tried Feeley, McDermott and Wright. What I am more concerned about is that there is, I would think, and I am sure you might agree with me, that there is inferences that the public is likely to draw from the statements you made concerning the matters mentioned by you.

A. That is right.

Q. And a rather sinister one; is that not right?

A. That is right, Mr. Rose.

Q. Now, you say that is, "That is all I am going to say about the jury, Mr. Speaker."

And you go on to say:

"I have further information in "particular with regard to the "deliberations of the jury and "jurymen which I have decided not "to give to this House."

THE COMMISSIONER: Where is that?

MR. ROSE: 106, Mr. Commissioner. The left hand column, the beginning of the paragraph, "Two of the four names he was asked to challenge were drawn and were challenged."

THE COMMISSIONER: What do you want to ask him about it?

MR. ROSE: "I have further information "in particular with regard to the "deliberations of the jury and the "jurymen which I have decided not "to give this House."

THE COMMISSIONER: What do you want to ask him?

MR. ROSE: Q. Do I gather from that, you had certain information from the members of the jury who tried McDermott, Feeley and Wright?

A. That is right, Mr. Rose.

Q. And would you tell me how it was that that information was given to you?

A. Now --

THE COMMISSIONER: Just a moment. If this information was given to him by members of the jury, then all I have to say is that it should not have been, and it doesn't matter when it was given or how it was given or by whom it was given. It should not have been given and I am not going to hear anything with respect to it.

MR. ROSE: Q. Just leaving that ---

THE WITNESS: Mr. Commissioner ---

THE COMMISSIONER: Please don't, Mr. Wintermeyer.

THE WITNESS: I am not going to divulge anything or make any explanation.

THE COMMISSIONER: I am discussing something with Mr.Rose.

MR. ROSE: I wonder if you would appreciate the reason for the question. As far asthat is concerned, it would appear it won't go any further, but there was a great deal of time taken up in the speech at page 105 and 106, which leads anybody listening to the speech or reading the report of the inescapable inference that is being made, that there was tampering with that jury ~~that~~ by the three of the persons whom I represent here within that menacing ---

THE COMMISSIONER: I don't think, Mr. Rose, with great deference to you, that there is anything in that speech which would lead to the question that there was tampering with the jury. There are matters referred to in the speech that might lead to the conclusion in the opinion of some people that the jury brought in a perverse verdict. There is no suggestion of tampering.

MR. ROSE: Ofcourse, the last statement:

"I have further information in
"particular with regard to the
"deliberations of the jury and
"jurymen which I have decided
"not to give this House."

is rather all-encompassing, and it might include

anything. However, as far as requiring disclosure, I am not going any further.

That is all the questions.

THE WITNESS: Mr. Commissioner, will you let me make one point?

THE COMMISSIONER: Not right now. We will have a ten-minute recess.

---Short recess.

(Page 11710 follows)

D/SCW/1

---On resuming:

THE COMMISSIONER: Mr. Rose, did you indicate if you were through? I just want to make sure. Where is Mr. Rose? Is he concluded?

MR. MacKINNON: I thought that he had, but I can't speak for Mr. Rose, my lord.

THE COMMISSIONER: Mr. Lawlor, have you some questions to ask?

MR. LAWLOR: Before I ask any, Mr. Commissioner, the questions I have in mind -- they are directed towards the social club charters insofar as the speech, Mr. Wintermeyer, and I have here a brief but they aren't on this ---

THE COMMISSIONER: Put the questions to him.

MR. WILSON: Mr. Commissioner, there may be some questions I want to ask this witness, not on this phase of the inquiry, and I am leaving them until the evidence was in on that question.

THE COMMISSIONER: Mr. Lawlor, doyou want to ask him any questions? Now, I will hear them.

EXAMINED BY MR. LAWLOR:

Q. First of all, Mr. Wintermeyer, have you seen this brief submitted to the Commission by the Department of the Provincial Secretary?

A. I certainly have seen it.

Q. Have you read it?

A. I have not read it in complete form. I have examined it.

Q. You know that the beief contains a running account of your speech?

A. Yes, it does.

Q. Insofar as it involves the social clubs and the Provincial Secretary's Department, and on another column makes a commentary thereon?

A. Yes.

Q. You have not read those commentaries?

A. Oh, Mr. Lawlor, I have looked at it. I recognize that it is the basic form of the brief.

Q. In general, have you any commentary that you can make on those commentaries?

THE COMMISSIONER: Well, now, just a moment, that is not going to help us very much.

MR. LAWLOR: Very well. Because, Mr. Commissioner, he could work from it with respect tothe commentary.

THE COMMISSIONER: You had better get me

mine, too. Go ahead.

MR. LAWLOR: Yes.

Q. On page 43 of the brief there is mention of the Divion Club and the question of the addresses; that is, apparently, Mr. Wintermeyer, you made no distinction between the actual operating address and the head office?

A. That is correct. That was a misunderstanding.

Q. That was a mistake?

A. It was a mistake.

Q. Very well. In the matter of the Club Bernard, that is at page 45 I believe, the comments made by the Provincial Secretary are that the order-in-council of the charter was on July 10th, 1961. That is prior to thedate of your speech, is that correct?

A. I am sorry --

Q. On the middle of page 45 of the brief it has a heading 'Club Bernard'?

A. Yes.

Q. You were quite wrong about that?

MR. ESTEY: What's that?

MR. LAWLOR: I am referring to the brief of the Provincial Secretary's Department at page 45.

MR. ESTEY: What year?

MR. LAWLOR: Apparently, he said,

according to his speech -- that is on the left hand column:

"From 1954 to 1956 he was a director "of the Club Bernard, a club still "operating and suspected of illegal "gambling."

The commentary on the other side states that the club dissolved on July 10th, 1961.

A. Mr. Lawlor, I am not sure about that.

Q. Obviously, the point that I was making was that a particular person was a director of the club from '54 to '56, and I don't think there is any question about that?

A. No.

Q. Now, the problem becomes simply this, as of the 29th of November, was the club still operating or not?

A. Maybe I was in error. I cannot tell you absolutely. You pointed out that the commentary suggested the club was dissolved in July of 1961, that may be; it doesn't deviate or negative observations I was making.

Q. No, but it indicates that the sources of your information may not have been as thorough in this specific instance as they might have been?

A. Mr. Lawlor, I don't think it

would have been humanly possible to do more than what was done on that. I don't think any -- I like to think that it has been done since the information came from the Provincial Secretary's files as such. Now, I think anybody who examined those files would realize that it is rather difficult to find your way through.

Q. On page 38 of the brief you mentioned the three clubs at the bottom of the page, you mentioned the Roseland Club, the Frontier Club and the Centre Road Veterans Club?

A. Yes.

MR. LAWLOR: In advance of the question, perhaps it would be out of order, Mr. Commissioner, but I am going to ask it.

Q. Is it your opinion, did you at that time, and do you now think that these club charters ought not to have been issued?

THE COMMISSIONER: Well, now, I want facts. I don't want his opinion.

MR. LAWLOR: Neither does the Opposition.

THE COMMISSIONER: I know.

MR. LAWLOR: Very well, your lordship.

Q. The clubs of which you speak here are largely confined to the Toronto area?

A. Yes, I would think that the big

majority of the clubs to which reference has been made are in the Toronto area. My recollection is that the great majority of them were in the Toronto area. I did make reference to the fact that the ancient and old clubs, identified as outside of Toronto, in communities, were transferred to Toronto and became operative here in Toronto.

MR. LAWLOR: Again, Mr. Commissioner, the question I propose to put may be questionable.

THE COMMISSIONER: Yes.

MR. LAWLOR: Q. What did you expect the Department of the Provincial Secretary to do that they did not do with respect, for instance, to the checking of membership lists of the clubs ---

THE COMMISSIONER: That would be an opinion.

MR. LAWLOR: Again, an opinion which may have been of some relevance to the Commission.

THE COMMISSIONER: I suggest to you, Mr. Lawlor, that you could make representations to me on the -- based on the evidence as to what they did that they shouldn't have done or what they failed to do that they ought to have done.

MR. LAWLOR: Again I bow, Mr. Commissioner, thanks very much.

THE COMMISSIONER: Questions, Mr. MacKinnon?

MR. MacKINNON: I have some ---

MR. WILSON: I have some questions.

MR. MacKINNON: Maybe I should wait until after Mr. Wilson has completed.

EXAMINED BY MR. WILSON:

Q. You say that the difficulty in finding your way through the Provincial Secretary's files -- I just want to know what that means?

A. I mean, well, Mr. Commissioner, it would be an expression or an opinion. I think, and I must say that I do think the administration -- the actual information could be assimilated in simpler form.

THE COMMISSIONER: He is apparently referring to the brief.

MR. WILSON: No, he is talking about the files, Mr. Commissioner.

THE COMMISSIONER: Well, he says they could be assimilated -- in simpler form.

MR. WILSON: He was talking about the files.

THE COMMISSIONER: Were you referring to

the files, or that big volume?

A. Mr. Commissioner, what I was referring to was this; the very difficult job

D/2 it is to accumulate information from the -- not from the other files as such, but one has to take each individual file and accumulate the information, and actually correlate it. Now, I would think that the job of correlating could have been done, and should have been done,and in response to Mr. Lawlor's observation that it may be -- that maybe the Provincial Secretary's Department should or could have known.

THE COMMISSIONER: Now we are just getting an opinion.

A. Exactly.

MR. WILSON: Q. I am only concerned that there wasn't any irregularity.

A. No, no.

THE COMMISSIONER: He is not suggesting that.

A. I wasn't suggesting -- I was just suggesting the pure mechanics within the Department.

MR. WILSON: That's all.

THE COMMISSIONER: Mr. MacKinnon?

EXAMINED BY MR. MacKINNON:

Q. Mr. Winterweyer, just two questions. You were asked about the Tocco brothers and the NBC television program, as to whether that was before your speech or not, and I wonder if it would refresh your memory if you were advised that this program,"Crime Does Pay", was shown on NBC network on October the 18th, 1961?

A. Is that right?

Q. Would you ---

A. If that were so, I would accept that.

Q. This was before the speech?

A. Before the speech. The speech was made on the 29th of November.

Q. And the second question is, prior to coming here, and prior to giving evidence this morning, were you interviewed by the -- did you speak to Mr. Wilson?

A. No, I have never talkedto Mr. Wilson about this.

MR. MacKINNON: Thank you.

THE COMMISSIONER: The matter is up in the air, Mr. MacKinnon. I don't know what the NBC T.V. program was -- "Crime Does Pay".

MR. MacKINNON: It was on, and I saw it by accident andnot by design, and I just happened to see it. This was long before I

thought I would be involved in anything like this, and possibly the Crown can give some evidence of what it was. I should think my friend could have gotthe evidence from Grosse Point.

THE COMMISSIONER: Whese would he go to get that evidence.

MR. MacKINNON: I would presume that maybe your Detroit policeman might have been able to give it if he was here.

THE COMMISSIONER: This television program referred to here, I think I have seen references to it from time to time, either here or in my room. What the content of it -- or whether it refers to Tocco ---

MR. MacKINNON: It refers to the Tocco brothers.

THE COMMISSIONER: Tocco?

MR. MacKINNON: Yes, as to their activities. The heading was, "Crime Does Pay", and it showed them on television with a picture of their home and them coming out and attacking a television cameraman and it was generally a review of how they had acquired their wealth.

THE COMMISSIONER: I don't think Mr. Wilson is suggesting that Tocco is -- I don't know anything about it. Is that all the questions of this witness?

MR. MacKINNON: Yes.

THE COMMISSIONER: Further questions, Mr.

Wilson?

MR. WILSON: No, Mr. Commissioner.

THE COMMISSIONER: That is all, Mr. Wintermeyer, thank you.

A. Thank you, Mr. Commissioner.

---The witness withdrew.

MR. WILSON: Call Mr. Common.

WILLIAM B. COMMON, recalled,

THE COMMISSIONER: You are already sworn, Mr. Common.

THE WITNESS: Yes, Mr. Commissioner, I was.

THE COMMISSIONER: Mr. Wilson?

EXAMINED BY MR. WILSON:

MR. WILSON: The witness's first appearance was on March the 20th and he gave certain categorical denials to certain matters that are in issue here. I don't propose to repeat any of that.

Q. The first matter I want to direct your attention to was your knowledge of George Scott's undercover operation starting in February of 1960.

THE COMMISSIONER: His present knowledge of it, or a running account of what his knowledge was from time to time.

MR. WILSON: That's right, Mr. Commissioner, what his knowledge was during the period that this operation was or had been carried out by Scott.

A. Mr. Commissioner, on or about March the 3rd, I think it was, of that year, Commissioner Clark came to my office ---

THE COMMISSIONER: That's in 1960?

A. 1960, yes. Commissioner Clark

attended at my office and advised me that an undercover investigation was going on in respect to Constable Wright. I had known prior to that time that Constable Wright had been transferred to Belleville and at that time -- that is on March 3rd of 1960 -- allegedly $400 had been paid by Wright to Scott.

After discussing the matter thoroughly with Commissioner Clark I instructed him to carry on this undercover investigation and to report to me from time to time as events transpired. I immediately took ---

THE COMMISSIONER: Don't go too quickly.

A. I am sorry.

Q. An undercover investigation -- proceed?

A. Yes, my lord. I immediately took Commissioner Clark in to see the Attorney General on that date and advised Commissioner Clark to relate to the Attorney General the same information that I had received a few moments previously. The matter was discussed and the Attorney General agreed with my instructions to Commissioner Clark to have an investigation proceed.

As Constable Scott made his report, as you know, he did not make a daily report. There was some nine, ten or eleven reports, I forget the exact number, and as those

reports came in Commissioner Clark came to my office with copies of the reports, as I recall, and I reviewed the reports. The matter was discussed further and the investigation of Constable Scott proceeded.

MR. WILSON: Q. When was the decision reached that a criminal prosecution should be instituted against R.J. Wright?

A. That was reached, Mr. Wilson, on the 11th day of May of that year, 1960, at which time the sum of $1,000 had allegedly been paid by Wright to Scott.

Q. And who were the parties to that decision -- who made the decision?

A. On that occasion, the meeting was held in the office of the Attorney General, and present was the Attorney General, Commissioner Clark and myself. The matter was discussed and the Attorney General felt that the proceedings had gone on a long considerable distance and a crime was prima facie being committed; that raids were contemplated, if not actually taking -- if not actually being carried out when it was known that there was a tip-off to the various places that were to be raided. The Attorney General felt, and with which I agreed, that the matter could not be permitted to go on any longer, and it was decided then

that a charge should be laid against Constable Wright.

At that time, Commissioner Clark requested the Attorney General to permit him to allow the investigation to proceed until the end of the month, and that permission was granted.

Q. What, so far as you were concerned, what was the next steps that were taken?

A. The next step, as I recall it, was on the 21st day of May when Commissioner Clark, and I believe he so testified here ---

THE COMMISSIONER: The date?

A. The 21st day of May, instructed Chief Inspector Graham to lay a charge against Constable Wright. I am not sure of what day of the week the 21st of May occurred on, but I think it was the Monday or Tuesday, or I am not clear as to that at the moment. But, in any event, the Attorney General, on that week-end -- that is the prior week-end -- left for Oregon, Portland, Oregon, for a meeting of the American Bar Association.

D/3 During that week of absence, the report of Constable Scott, in which my name appeared, and I think also Constable -- Deputy Commissioner Bartlett's name appeared, was shown to me.

Q. Well, now, just so that we will be clear about that, would you show the

1 witness Exhibit 61 at page 25, I think it is.
2 THE COMMISSIONER: The Attorney General
3 was in Portland?
4 A. The Attorney General was in Portland
5 when this report was shown.
6 MR. WILSON: Q. 25, page 25.
7 A. Thank you.
8 Q. Look under -- that report is
9 dated May 23rd, 1960, and it is the ninth
10 report, and if you look in that report under
11 the date of May 13th, item (B). Is that
12 one of the reference to yourself that you
13 were speaking about?
14 A. Thatis so, Mr. Wilson.
15 Q. Then if you look at the next
16 page under the date of May 17th, item (H),
17 is that the other item that you speak about
18 that was brought to your attention?
19 A. That is correct, sir.
20 Q. At that time?
21 A. That is correct, sir.
22 THE COMMISSIONER: Let me see item (H).
23 A. Naturally I was astounded,
24 disgusted, and ---
25 Q. And angry?
26 A. I beg your pardon?
27 Q. And angry?
28 A. That's the understatement of the
29 year, sir, with respect. I was unable to report
30

the matter to my Minister because, as I said before, he was then in Portland, Oregon.

On the 26th day of May, a charge was actually laid by, I understand the informant was Chief Inspector Graham, and Wright's arrest was effected on the 28th or 29th -- the 29th I believe. That week-end -- that was the Saturday morning of Wright's arrest, and that was the week-end, and there was then the annual convention of the Crown Attorneys Association which was held in Ottawa, and to which -- at least which I always attended, and the Attorney General also attended. It was the first opportunity, of course, that I had the Attorney General -- having returned from Oregon -- it was the first opportunity I had of advising my Minister of the contents of Constable Scott's report, No. 9. At that time Constable Wright had been arrested.

MR. WILSON: Q. Did you have anything to do with further investigations being carried out by Chief Inspector Graham following the arrest of Wright?

A. I knew that Chief Inspector Graham, having regard totho information contained in all of the reports of Constable Scott, was checking out the -- a great deal of phone numbers and a great deal of information with a view of charging McDermott and Feeley.

Q. Then, did you have anything --we have been told that McDermott and Peeley were charged as being keepers of a common gaming house in June of 1960.

A. They were charged -- the information, I understand, Mr. Wilson, was laid -- I do not think -- in the laying of the information there was some discussion, as I recall, about the form of the information, and a subsequent information was laid against both McDermott and Peeley charging them with keeping a common gaming house in the County of Peel.

Q. Did your Department retain counsel to conduct these prosecutions?

A. Yes, the local Crown Attorney in the first instance, Mr. Metcalfe, Peel County, handled the matter, and at least when I say "handled the matter", he was engaged in the matter in the first instance. At a later date, it transpired that Mr. Metcalfe felt that he was disqualified in handling the matter by reason of his prior association as a private practitioner with the Gogek firm, in Port Credit I think, who had acted on occasions for McDermott and Peeley.

As a result of his request to be relieved, Mr. Alex Hall, Q.C., the then Crown Attorney at Oshawa or Whitby, was retained and he carried on for some time. Now, Mr. Henry

Bull, Q.C., the senior Assistant Crown Attorney for the County of York, was requested to handle the prosecution in regard to Wright, and there were conferences between Mr. Hall, Mr. Bull, members of my Department, including myself, on occasions, in regard to the matter, and in the meantime, and this I want to emphasize, the charge or charges against McDermott and Feeley were uppermost in our minds. We knew that Chief Inspector Graham and members of the C.I.B., and the Anti-Gambling Squad were pursuing the investigation from the facts arising out of Constable Scott's diary, with that end in view, and it must be borne in mind that the summer vacation intervened, although I am informed and I knew at the time that the police investigation was proceeding during the summer months.

Later on that fall, I think it was in the month of November, a meeting was called in my office, and as my recollection informs me, I think there were present then Mr. Hall, and Mr. Bowman, and I am not sure whether Mr. Bull was there at that time or not. However, on that occasion, if I -- I think it was that occasion, if not the next meeting, it came that Mr. Hall, as I said before, had been retained to prosecute the gaming house charge, and having been retained in that

capacity, he had access of course to all the police information and facts, and I think it was at a later meeting, I think a meeting we had in November, where he announced to myself and to Mr. Bowman that there was evidence which had -- which was to some extent corroboration involving McDermott; that was, that Sergeant Anderson had been over -- had overheard by telephone a conversation that had taken place by -- between -- allegedly taken place between McDermott and Scott.

Q. Now, was that the first time that you had knowledge of that fact?

A. That was the first time that I, either Mr. Bowman or myself, had knowledge that there was any corroboration whatsoever.

Q. Now, I want you to look at Exhibit 61, at page 29, and under the date of May the 25th, the second paragraph reads -- first of all, was that particular report brought to your attention?

A. I can't say definitely, Mr. Wilson, whether it was. I can say very definitely, that if this report had been brought to my attention I had no recollection of that paragraph in viewof the scandalous references to me in the previous one, and I was more interested, and I think naturally,

in the previous one.

Q. Well, the wording there is:

"I phoned a Crescent number --

"Crescent 8-3783 about 7.10 p.m. and

"the usual voice answered, Joe

"McDermott. This call was placed

"from our office at general

"headquarters, and Sergeant Anderson

"was listening in on another phone

"on the same line."

A. Yes.

Q. There is nothing in that report that indicates that Sergeant Anderson recognized the voice?

A. That is quite so.

Q. That is quite so?

A. Yes.

Q. Well, in any event,you can't say whether or not that came to your attention, and it certainly didn't indicate to you that there was any corroboration?

A. That is so. I think I can quite fairly and honestly say, having regard to the entire Scott diary, I was satisfied that there was no corroboration insofar as Kiss McDermott and Peeley were concerned, per se that is, I am leaving out the subsequent police investigation, of course, which did disclose evidence that resulted in the conviction of

the three accused, but I was satisfied from the ---

Q. That conviction was appealed, as I understand it, this morning the appeal was dismissed?

A. So I was advised a few moments ago, that the appeal had been dismissed.

Q. What happened after that -- this meeting that you say took place between the persons whom you have named, insofar as the Crown prosecutions are concerned?

A. Mr. Bull, as I have said before, and I think he testified to this in his own evidence, was of the opinion that the charge against McDermott and Feeley should not be associated in any way with the charge against Wright. He was very strong in that view and he felt that the collateral prosecution in that field would more or less muddy the water, and he felt that he could not conscientiously take the brief and ask to be relieved of the responsibility. We then asked Mr. Alex Hall, who had been retained to prosecute the gaming house charge, to assume the responsibility of prosecuting the charges of bribery against Wright, McDermott and Feeley, to which he agreed.

He was then assisted by the members of the Anti-Gambling Squad and Chief

D/4

Inspector Graham, but fortunately possibly for him, he was in a very few weeks after that retainer, he was appointed as a County Court Judge for the County of Ontario, which left us without a prosecuting counsel.

After discussing the matter with the Minister (sic) of Public Prosecutions, I think it was after the New Year in 1961, Mr. Gordon Ford was then retained as Crown counsel.

Q. Now, to what extent, if any, did your Department exercise control over the prosecution and advise on what evidence, if any, would be put in and so on?

A. Well, if an outside Crown counsel is retained in any matter, we leave the matter entirely to him. We had no directions in this particular instance. As far as this question is concerned, Mr. Ford received no direction whatsoever from myself or the Attorney General, to my knowledge, or from Mr. Bowman, to my knowledge, as to the conduct of the proceedings, and Mr. Ford sought none. In other words, he was given a complete independent operation. I think there were one or two occasions when he came to the Department to discuss probably a matter of law or something of that sort, but not in any sense of the word did he seek direction as to what evidence should go in

and what evidence should not go in. He was completely unfettered in his discretion in the conduct of this prosecution.

Q. Then after, did your Department have anything to do with consideration given to an appeal?

A. Yes, in the month of June, the first trial received an acquittal of the three accused. I haven't got the exact date, I think it was towards the end of June, and a meeting was convened in my office -- as a matter of fact, I think the meeting took place in Mr. Bowman's office, because they were there when I arrived; and present were -- Mr. Ford, Mr. Bowman, and Mr.Bull and myself. Now, Mr. Bull's presence there can be explained because you may recall that there was a prosecution initiated in respect to an alleged bribery or attempted bribery, I should say, of a jury or juryman at the first trial, and Mr. Bull had been retained to prosecute that case, so that explains the reason he was there. On that occasion, Mr. Ford brought forward a draft of, a very rough draft of a notice of appeal. We discussed the grounds of the appeal and bearing in mind that -- I am sure you know and the Commissioner of course knows, that the Attorney General has grounds to appeal only on a question of law

alone, and he had no appeal on mixed fact and law and fact, but it must be a question of law alone. The grounds of appeal were discussed and certain criticisms were made and everybody spoke, I may say, very freely expressing their views on the matter, and Mr. Ford left, I think around 5.00 o'clock, and later came forward with some other revised -- slightly revised ground of appeal. I might say that the Attorney General previously had announced his ~~sp~~ intention to appeal. At a later date -- a few days later, I would say, practically the same notice of the -- the same grounds of appeal had been engrossed in the former notice of appeal, with one or two, I might say, minor changes, and we agreed on these grounds and the result was that the notice of appeal were served on the three accused and filed in the ordinary way. That was in the month of June, 1961. The long vacation intervening, the appeal I think was perfected, if my recollection serves me, as far as the Court of Appeal is concerned, and some of the grounds of appeal would have required, as I recall, considerable affidavit evidence which might or might not have been permitted to be used in the Court of Appeal.

Mr. Ford, having read the transcript of this trial, having considered the grounds

of appeal, eventually came to the conclusion that the appeal was not a tenable one and so advised the Attorney General, and consequently the appeal was abandoned.

(Page 11735 follows)

MR. WILSON: Q. I want to turn to another matter. You did receive, from time to time, certain complaints by solicitors in respect to alleged harrassment of social clubs in the Province?

A. A great number, Mr. Wilson.

Q. And what was your practice in regard to dealing with such complaints?

A. Those complaints fell into two categories: Verbal and by letter.

I listened to the complaints, and I might say that these complaints were made by Mr. Herman, who was then apparently acting for the operators of the clubs in question, the three clubs.

I would listen to Mr. Herman ---

THE COMMISSIONER: Who was making complaints on behalf of the club?

A. On behalf.

Q. Not against the club?

A. On behalf of the clubs; I am sorry, sir.

And to make it short, I paid no attention to it, and I might have been very discourteous.

I think I answered one, if not two; I remember I answered one letter and pointed out to him, that is, Mr. Herman, that as long as these clubs were conducted and maintained as fortresses, and afforded an obstruction

to the police, that he could not complain about any harrassment, or any police activity at that time. Again, I might have been most discourteous, because Mr. Herman wrote a great ~~ex~~ number of letters, which I ignored.

MR. WILSON: Mr. Commissioner, these letters are on file.

THE COMMISSIONER: Yes, that is right.

MR. WILSON: Q. I do not think we need go into them.

Now, what part did you play, in the meetings, or the consideration that was given to the issue of three Provincial charters to the Centre Road, the Frontier and the Roseland Clubs?

A. I was appointed to my present position, I think it was in - round - round the 1st of June of 1957. Prior to that time, ---

THE COMMISSIONER: As Deputy Attorney-General?

A. Deputy Attorney-General, yes.

Q. What date?

A. I think it was the 1st or 2nd of June.

Q. 1957?

A. 1957.

Q. Yes?

A. Prior to that time, I cannot recall any discussion with anyone; either the

Minister, or Mr. Magone who was then Deputy Attorney-General, regarding the suggestion of issue of Ontario charters. Bearing in mind that prior to that time these clubs operated, not under charters, as such under the Dominion; but they were authorized under Dominion legislation to operate branches. They were not charters, in the accepted sense of the word.

In the month of July or the latter part of June of that year, the Attorney-General sent for me and I went into his office, and Mr. Louis Herman was there.

Q. Don't go too quickly.

A. Yes, sir.

Mr. Wilson may have that date; I am sorry, I have not got the exact date.

Q. All right.

A. I could sense, immediately, that the atmosphere was quite charged and tense; and the Attorney-General was quite angry, probably not at Mr. Herman personally, but probably through him, at his clients, and accusing them of hiding behind the Dominion legislation, when the Ontario charters, if issued, were restrictive; and if they were not suspect at all, why did they not come in and abandon the Dominion authorization and come under the Ontario charters and he so challenged

Mr. Herman. He said, "If you have nothing to fear, come under the Ontario charters, with these restrictive clauses in them, and give us an opportunity to see, to see what good faith you are capable of" or words to that effect.

I was sitting there, and Mr. Herman on that occasion, as I recall, told the Attorney-General that he would take the matter up with his clients and advise the Attorney-General at a later date. And I believe at a later date he did so advise the Attorney-General that he received instructions from his clients to abandon, or renounce the Dominion charters, if I may call them as such, and to accept Provincial charters, with the restrictive clauses.

And those charters were issued I believe on the 28th day of July, 1961.

Q. You say they were issued; I think as I recall Exhibit 11, that they bear date of July the 5th, but they were delivered ---

A. I am sorry, yes. July the 5th.

Q. Now, did you have a meeting with Assistant Commissioner Bartlett and Sergeant Anderson, at which there was present Mr. Bowman, where there was a discussion about these charters?

A. Yes. I think it was on July 12th.

I might go back for just a moment to the meeting that took place in the Minister's office. Mr. Herman was of course very vocal on that occasion regarding the harrassment, as he put it, of the operations of the Ontario Provincial Police, and the gambling squad, and endeavoured, as I recall, to have a quid pro quo on this matter.

But there was no undertaking by the Attorney-General or myself: That if they came under Provincial charters, that there would be any - it was just left that way. It was a fluid situation, and there was no undertaking.

THE COMMISSIONER:Q.You said he wanted a quid pro quo? I do not follow.

A. I am sorry; I think what Mr. Herman had in mind, was: We will only come under this Ontario charter if you will discontinue the harrassment.

Q. The harrassing?

A. But no undertaking was given in that regard by the Minister or myself.

There was a meeting in my office on July 12th, between the persons that you have mentioned, Mr. Wilson.

MR. WILSON: Q. Yes?

A. And I told those present of the decision of the Minister to bring these clubs under Provincial charters. And we

discussed the question at that time of the relaxing of this policy of harrassment. And bearing in mind that at this time we had tried - we had tried harrassment; we had tried raids; we had tried undercover men; we had tried practically everything, to no avail. The police had never, come up with any evidence, and it was decided at that meeting that a chance should be given to these people, without harrassment, which consisted almost of the taking of names, the picketing outside these places, the taking of licence numbers, and exhortations not to go into the premises, by police, to intended patrons, and discontinue - to give these people an opportunity to demonstrate their good faith, if any, in regard to their decision to come under the Ontario charters.

Q. I show you a document dated March 5th, 1957 - March 5th, 1962, I beg your pardon. It is the report from Sergeant Anderson, to Chief Inspector Graham, and part of Exhibit 10.

If you will look under date there of July the 12th; it starts at the bottom of page 2 ---

A. Yes, I have it here, sir.

Q. I think he properly describes in his quotation the persons who were present.

A. Yes.

Q. And then he goes on to say:

"The Attorney-General, Kelso Roberts,

"issued Provincial club charters."

A. He did not issue them at all, of course.

Q. That would be inaccurate?

A. That is inaccurate.

Q. And then he goes on to say: "Through Sol Gebirtig".

What part did Sol Gebirtig have, in this?

A. I have not the faintest idea. Gebirtig, to my knowledge, had nothing to do with the matter at all. That is completely inaccurate.

Q. Yes. And going further, he says that the Attorney-General was not at the meeting. And that is the fact, he was not.

A. The Attorney-General would not come into my office, to me. I am sure I would have to go to him.

I notice that he mentioned that the Attorney-General was not there; why he put it in, I do not know.

Q. At the top of the page there he says:

"I was informed at this time -

"that the Attorney-General had

"seen fit to issue the charters

"to all three clubs"

and he names the three clubs, and then he adds "without their knowledge".

A. I have seen that.

Q. What do you say as to that?

A. That is completely wrong. I take it "without their knowledge", that is without the knowledge of the people at the meeting?

Q. Yes.

A. This is so fantastic that it hardly bears any comment.

Of course, I knew that the charters were issued; Mr. Bowman knew they were issued, and the inference of this entry to Inspector Graham is, that this was done behind the back of the Deputy Attorney-General and the Director of Public Prosecutions, which is absolutely wrong.

THE COMMISSIONER: Let me see that.

THE WITNESS: I cannot understand a man of Sergeant Anderson's experience ever making an entry such as that.

THE COMMISSIONER: Where is that?

THE WITNESS: Right at the top of the page (indicating).

THE COMMISSIONER: I must confess that up tothe moment I did not know that - that the words "without their knowledge" were there.

Quite erroneously, I up to now had thought that what he was complaining about was that the charters had been issued without the knowledge of the police. This apparently makes it plain that he is reporting that the charter was issued without the knowledge of, or apart from Mr. Bowman.

THE WITNESS: That is how I take it, sir.

MR. WILSON: Q. I have the 1957 diaries of Sergeant Anderson, Mr. Commissioner. It contains what appears on page 2 - it contains no reference of the kind that we find on page 3. I will have it for you in a moment.

Now, following that meeting I take it that to your knowledge surveillance and raids were carried out on these three clubs, which we have heard about in evidence here?

A. There were no restrictions whatever, placed on the Anti-gambling squad or the Provincial Police regarding raids and surveillance and observation. And that is I think demonstrated by another exhibit where Sergeant Anderson said that raids were to continue without referring the matter to anybody.

Q. Yes. I think we have had the directive from Commissioner McNeil, to the three districts concerned, to that effect.

A. That is so.

Q. And then, you recall in the fall of that year - possibly before I come to that: I do not know whether we need file that, but it is clear that the last portion of the report is based on the diary notation; this particular diary has not been entered.

THE COMMISSIONER: Let me see that. (Handed)

The point you are making is that there is nothing in the diary that they have been issued without the knowledge of Mr.Common or Bowman?

MR. WILSON: That is right.

THE COMMISSIONER: That is 275.

---EXHIBIT NO. 275: Diary of Sergeant Anderson, including notation dated July 12th, 1957.

THE COMMISSIONER: I am sorry, I did not make a note of the date of that?

MR. WILSON: July the 12th, 1957.

THE COMMISSIONER: July what?

MR. WILSON: The 12th.

THE COMMISSIONER: All right.

MR. WILSON: Q. Do you recall a meeting in the fall of 1957, in October, where discussion took place in regard to the Roseland Club?

A. Yes, I do.

Q. And who were present at that meeting?

A. Oh, Inspector Ramsbottom; District Inspector Ramsbottom; Sergeant Hatch from that district; Inspector Hand from District No.5, and I think Inspector Marsland. Commissioner McNeil, Deputy Commission Bartlett. I am not sure whether Mr. Doman was present on that occasion or not, and myself. There may have been one other there; I am not sure.

Q. Briefly, what decisions were arrived at, so far as the results were concerned?

A. The purpose of the meeting as I recall was to the effect that Sergeant Hatch, now Inspector Hatch, was contemplating, of course, a raid on this club. He had at that time an informant in mind; he sought permission, I take it, from me, to discontinue making any reports as to his activities in regard to the Roseland Club, to Headquarters, giving as his reason that he was suspicious that there was a leak somewhere along the line in regard to tip-offs. Also, that he had in mind an informant, whose name he did not wish to divulge, even to his Commissioner. I remember quite well I said, "I do not want to know it either".

The result of that meeting was that I, as Deputy Attorney-General, instructed him that he was not required, in this particular

case, having regard to surrounding circumstances, and so on - that he was not required to make any reports, written reports, to Headquarters; and that he must not divulge the names of this witness, or informant, to anyone, not even to his Commissioner; and I said I did not want to know it myself. And I did not know the name of the informant until after the trial.

I also told him - I said, "Do not divulge the name to the Crown Attorney even." Not that I had no great faith in him; I had the greatest faith in him - but to have the greatest, I said, "Do not give the name of that informant to the Crown Attorney until a minute or so before he is put in as a witness". And that was accordingly done. And that was the purpose of that meeting, and the result of it.

Q. Now, we have had evidence that one of the persons present at that meeting, at the end of the meeting made some inquiry of Hatch as towhat he had, so far as informants were concerned.

A. Yes. I was here, in the Commission room, when that evidence was given. I cannot recall any -- I do not think it was in my office, or I think I would have recalled it. It must have been in the hallway,

or something of that sort.

I feel quite confident, in view of what I had directed a few minutes before - I feel quite confident, confident that that never took place in my office.

Q. I want to lead your attention to the steps leading up to the cancellation of the Centre Road Veterans Club Charter; and I understand you had something to do with the decision that was made in that regard?

A. Yes, sir.

Q. What was your part in that?

A. In February -- I think it was in February of 19 -- in February of 1960, Mr. Cudney, the Deputy Provincial Secretary held an inquiry under his legislation, calling on the owners or operators of the Centre Road Club to show cause why their charter should not be cancelled, having regard to the alleged violation of the restrictive clauses.

That inquiry proceeded. I believe the reporter got ill or something; I know there was some difficulty in getting the transcript. I know that I got Volume 2, and I never got Volume 1, due to the illness of the reporter. And it was some weeks before I was tendered Volume 1. And then I considered the entire evidence which had been taken by Mr.Cudney; and counsel were there representing the club.

As for the Department, I think we had Mr. Frank Wilson sitting in with a watching brief, for our department.

I read the evidence very carefully and considered the matter and I made a report.

Q. Is this the report (indicating)?

A. I know it was a lengthy report; yes, this is it (indicating).

I made a lengthy report to the Attorney-General on the 27th day of April, 1960. This is an eight-page report.

MR. WILSON: Mr. Commissioner, that report is not in evidence.

THE REGISTRAR: 276.

---EXHIBIT NO. 276: Report of W.B. Common, Esq., Q.C. to the Attorney-General, dated 27th April, 1960.

THE WITNESS: May I see that original for just a minute? Thank you. (Handed to the witness)

In that report I had reviewed the evidence taken before Mr. Cudney, on the so-called application. I came to the conclusion that there was violation in regard to the non-compliance with the membership requirement; there was non-compliance with regard to the existence of a bolt which might have been used as an obstruction for the police to gain entrance to the premises.

I concluded that they had violated - I concluded they had violated the restrictive clause in their charter, and recommended, I think to the Attorney-General, that he should in turn recommend to the Provincial Secretary the cancellation of the charter.

I wish to make this observation, if I may, sir: This report is dated the 27th day of April, 1961 - 1960, I beg your pardon. It must be borne in mind that the investigation by Constable Scott was at a critical stage at this time, and I deliberately withheld this report going to my Minister, until such time as Constable Scott's investigation was concluded, or nearing conclusion, because I did not want some cancellation proceedings taking place in regard to a charter of a club, with regard to which an undercover investigation was going on. And I do not think this reached the Minister for some weeks afterwards.

Q. Before coming to that, I see that on page 7 you deal with Mr. Herman and Mr. Herman was acting for the clubs on these hearings we have been told; and that he was contending that a conviction was the only basis upon which a cancellation should proceed; and you deal with that contention, and report against it.

A. That is so, sir, yes.

Q. And just to sum up, at the bottom of page 7 you say, in view of the overall picture:

"It is my opinion and recommendation "that you should advise the Honourable, "the Provincial Secretary to take "the appropriate action for the "cancellation of this charter for "breaches of conditions 1, 2 and 3 "above set out."

A. Yes.

Q. Now, I think there was a document, Exhibit 53, which will help us to establish the time when the decision of your Department went forward to Mr. Gadney.

A. Yes, sir.

MR. WILSON: Would you give that to the witness. (Handed to witness)

THE WITNESS: This is a letter dated May the 30th, 1960, addressed to Mr. Gadney, and signed by myself.

MR. WILSON: Q. Then on page 3 of that exhibit ---

A. Yes.

Q. -- there is a written notation. In whose handwriting is that?

A. Well, it is on the copy, Mr. Wilson.

Q. On the copy?

A. Yes, on the copy.

Q. What does it say?

A. There is a notation in ink, dated the 3rd day of June, 1960, signed by the Attorney-General, reading as follows:

"Mr. Common, I approve of your "recommendation. A.K.Roberts,A.G."

THE COMMISSIONER: What date was that?

MR. WILSON: The 3rd of June.

THE WITNESS: The 3rd of June, sir, 1960.

THE COMMISSIONER: Your report to him was dated -- ?

THE WITNESS: My original report was April 27th.

THE COMMISSIONER: You withheld it?

A. Sir, yes, I withheld it for the reasons stated.

Q. Yes?

A. I might point out my report to Mr. Cudney is dated the 30th day of May. Mr. Commissioner, that is two days after the arrest of Wright.

Q. The report to Cudney?

A. My report to Cudney, recommending the cancellation of the charter, two days after the arrest of Wright.

Q. I see.

MR. WILSON: Mr. Commissioner, I am going to turn to a new point. I will not

be very much longer with this witness, but it will be another matter.

THE COMMISSIONER: Two-fifteen.

---Whereupon the hearing recessed.

(Page 11753 follows)

AA/JRT/1

---On resuming at 2.20 p.m.

---The witness resumed the stand.

MR. WILSON: Q. We have as evidence by Magistrate Frederick Thompson about a meeting, or what he said were meetings, with you in regard to a telephone call from a person who identified himself as James Maloney. Do you recall the incident?

A. Yes, I do, Mr. Wilson. I heard Magistrate Thompson's evidence. My recollection was that I only had one visit from Magistrate Thompson. It might have been two. If he says it was two, I don't disagree with him, but my recollection was that it was just one. My recollection is that he telephoned me first and said he had an important matter to discuss with me and he came up to the office and he told me that on the date in question -- I don't think he pinpointed an exact date, it was either in March or April of that year, 1959 I believe it was -- that he had received a telephone call in the morning from an individual who identified himself as the late James Maloney. He told him that he was interested in the case because his brother Arthur was defence counsel. I think he asked at that time how was the case going. I asked Magistrate Thompson at

what stage of the case this alleged conversation took place and my recollection is that either all the evidence was in and he had reserved judgment, or most of the evidence was in and he had reserved judgment on some point raised in a motion, but I think my better recollection is that the evidence was in and he had reserved judgment. I asked him whether he was certain beyond any peradventure it was Maloney's voice -- Mr. Maloney's voice -- and he wasn't positive, definitely. And I said to him, "Can you honestly deliver judgment in this case without fear or favour?", and he said he thought he could, and I said, "Go ahead."

Now, my recollection is that it was on that occasion that I took him into the Attorney General. I thought the matter, of course, was important and it should be reported. His evidence before here is that he left my office and I called him back at a later date. He may be right in that. As I say, I have no recollection of that. In any event, when he did come back -- went into the Minister's office -- he again related the same story to the Minister that he had related to me. The Attorney General questioned him as to the identification of the voice and Magistrate Thompson was not any

too definite that it was Mr. Maloney.

Now, I know his evidence here was that he was quite definite before this Commission, but he did admit before the Minister and myself that there was a possibility he might have been mistaken, and the Attorney General asked him whether, in terms similar to my question, whether he felt he could decide the case. He said he could and he was instructed then to proceed with the case.

Q. In his evidence he said that at the time he met with the Attorney General and yourself he felt slightly intimidated, said there was a feeling of oppression in the room.

A. Well, I don't know how he got that impression because there was no intimidation of the Magistrate, of Magistrate Thompson on that occasion. The Minister questioned him quite closely in regard to his recollection and as to his determination whether this was Mr. Maloney or not, and at that time he was not as definite by any means as to the identification of Maloney's voice as he was before this Commission.

Q. And I think we were told by the Magistrate that he proceeded to give judgment in that case and convicted the accused.

A. That is right. I further under-

stand at a later time that the Attorney General spoke to the late Mr. Maloney who denied the incident. And then I think it was in evidence here, Mr.Commissioner, that Mr. Maloney later gave a press release denying the whole matter.

MR. WILSON: I think that is all, thank you.

THE COMMISSIONER: Any questions, Mr. Rose?

MR. ROSE: I have no questions, thank you, sir.

THE COMMISSIONER: Mr. Lawlor? Who goes first?

MR. MacKINNON: I am prepared to go.

THE COMMISSIONER: It doesn't matter to me which way you go.

EXAMINED BY MR. MacKINNON:

Q. Mr. Common, I believe you said this morning that with regard to Mr. Herman's complaint you "paid no attention to them", were the words I took down, and you may indeed have been discourteous to them. Is that a fair summation?

A. Discourteous in not answering the numerous letters he sent in.

Q. The first exhibit that Mr. Wilson has put in in this connection that I can find is Exhibit 92, a letter of July 29th, 1954, written to the Commissioner of Police for Ontario complaining about actions of the police at the Roseland Club, you know, in Windsor, and concluding by saying:

"Following your letter to us "of the 9th instant, as stated, "we had been prepared and instructed "not to pursue the matter further. "The position is now changed and we "are forwarding copies of the "correspondence, including this "letter to the Attorney General "so that he may look into this "matter and take such action as is "undoubtedly warranted by the above."

Now, turning to Inspector Tomlinson's diary which is Exhibit 34 -- that letter, to refresh your lordship, is dated July 29th, 1954 -- on August 3rd, 1954 -- there was a week-end intervened there -- Inspector Tomlinson says:

"Received notice from Mr. Common, "no more raids by squad at Windsor "until further notice."

Now, what can you tell us about that?

A. I recall that, not vividly, but it

does recall something to me. What happened, the incident in question I recall had to do with the Anti-Gambling Squad breaking the windshield of the car which was alleged to contain the look-out. I think it was the son of Gardner or Finnigan was sitting in the car. He was dragged out of the car and the story, as I recollect, required hospitalization. I thought a cooling-off period for a few days might be in order and that is the reason that directive was sent out, that suggestion was sent out.

Q. I don't think this letter refers to Finnigan being attacked.

A. Well, I may have the incident confused, Mr. MacKinnon.

Q. Robert Gardner.

A. Gardner was in hospital, too, apparently, at the same time as a result of the raids.

Q. This is the allegation. Did you check those allegations before you gave those instructions to Mr. Tomlinson?

A. I can't recall. I know that -- I'll say this, that there is, I think it is in evidence, a report received from a doctor in Windsor, as to the injuries received by this lad and possibly Gardner.

AA/2

Q. Well, I don't recollect it.

THE COMMISSIONER: Q. We haven't had it here.

A. Well, there is some evidence to that effect.

MR. WILSON: 178-A.

THE WITNESS: The matter was investigated.

MR. WILSON: Not from the doctor.

THE WITNESS: There is evidence.

MR. MacKINNON: Maybe you could tell us the date of that document?

MR. WILSON: The first one is 178-A, July 7th, 1954.

MR. MacKINNON: This is before the letter.

MR. WILSON: The second, 178-C, is July -- it's hard to make out.

MR. MacKINNON: That is the letter I have just read, I believe. Yes, that is the letter I have just read.

MR. WILSON: Thatis right.

MR. MacKINNON: Q. Then Sergeant Anderson advises us -- and this is in his diary -- that on May the 25th ---

THE COMMISSIONER: What exhibit?

MR. MacKINNON: Exhibit 69, a diary for 1956, that he was instructed to -- and it is "Re gambling houses".

THE COMMISSIONER: What date?

MR. MacKINNON: May 25th, 1956:

"Gaming houses, execute warrants

"only on complaints. Discontinue

"trying to get officers in for time "being."

Q. Do you remember, did those instructions come from your office?

A. No, they did not, Mr. MacKinnon. What has reference to a meeting that took place between the Attorney General, Commissioner McNeill, on May the 25th, and I am not sure who the third party was. I was not at that meeting.

Q. I see it says here: "With Commissioner E.V. McNeill to Attorney General's Department, K. Roberts, re gaming."

A. That's right.

Q. So Anderson, McNeill and Roberts, and maybe some one else?

A. I don't know. There might have been some others. I was not there, sir.

Q. You were not aware of the reasons, then, for these instructions being given?

A. I learned subsequently the reason for the instructions, those instructions if they could be termed such. The evidence indicates multiple raids over a protrasted period of time, the effort toget undercover men in, and, as I understand it, they felt that they might lull these people into a sense of probably false security if there was psobably a slight let-up of the activities.

Now, I hope I am stating it correctly. I was not at the meeting, but I think that is what it was.

Q. Well, the reference was to executing warrants only on complaints. To your recollection was there ever any complaint received about these clubs?

A. There were complaints received from anonymous letters that reached the Department on a few occasions and I think that would be ---

Q. Would be the extent?

A. --- the extent of the complaints, yes. They were very few, I might say.

Q. Yes, we have been advised they didn't believe there were any complaints.

A. I think there was occasionally an anonymous letter would come in and complaining about the operation of the Centre Road and I think I do recollect one coming in regarding one at Roseland, but they were very, very few.

Q. Then coming forward to 1957, did I understand you correctly that in June and July, 1957, prior tothe issuance of provincial charters, you were under no illusions as to what these clubs were doing?

A. They were suspect.

Q. And you also said that at that

stage raids and harassments were to no avail, is that correct?

A. That is so, sir. In our opinion.

Q. Now, I have here Exhibit 75 which is a memorandum to yourself dated June the 5th, 1957, and it is part of a series of memoranda dealing with the gambling activities in the Bertie Township club, the Windsor -- that is the Roseland Club -- and the Centre Road Veterans Club. He deals ---

THE COMMISSIONER: What are you reading from?

MR. MacKINNON: Exhibit 75, a memorandum to the Deputy Attorney General from the Commissioner of Police.

THE WITNESS: What year is that, again?

MR. MacKINNON: Q. 1957, just at the time these people were seeking the new charters.

A. Yes.

THE COMMISSIONER: Memo from whom?

MR. MacKINNON: The Commissioner of Police McNeill, H.V. McNeill.

THE COMMISSIONER: To whom?

MR. MacKINNON: To this witness, the Deputy Attorney General, and he says there was a raid on the premises of the Bertie Township club on June 3rd, 1957, at which time only four men were present playing cards, and then he

goes on to say:

"There were no other activities and our
"personnel did not experience any
"difficulty or delay in gaining
"access to the building. Since that
"date constant observations have
"been maintained daily but there has
"been a noticeable lack of activity
"and there have been no persons
"visiting the premises or autos
"parked on the adjacent lot.
"Daily checks will be maintained in
"accordance with the departmental
"policies."

Then he goes on to report on the Roseland Club. He says there had been no raids on this club since April 25th, 1957:

"Owing to the fact that there have
"been no activities whatsoever.
"A corporal and a constable have
"maintained close observations
"every night and there has been
"insufficient evidence of activity
"to justify further raids. With
"the exception of the staff there
"have been no visitors to this
"establishment."

Q. Now, Mr. Common, so far as those two clubs are concerned, wasn't the policy of

harassment rather effective?

A. I am not in a position to answer that, Mr. MacKinnon.

Q. Didn't that report indicate to you that those two clubs weren't thriving at least?

A. The report indicated there was no activity in those two clubs. Whether it was as a result of the harassment of the Ontario Provincial Police or a falling off of patronage, I don't know.

Q. Well, Mr. Herman in his evidence advised us that his clients felt something had to be done because clientele was dropping off drastically and what had hasa to be done, I gather, it was to secure new charters. Now, on that occasion we also

(Page 11759 follows)

have, of course, the evidence of Mr. Gardner.

A. Mr. MacKinnon, may I interrupt you?

Q. Yes?

A. Did you say Mr. Herman sought the charter?

Q. He put it, something had to be done.

A. I fail to know any evidence of Mr. Herman asked for charters.

THE COMMISSIONER: I am a little confused, Mr. MacKinnon. You were suggesting to the witness the constant harassment had reduced them to the point where they weren't getting much business?

MR. MacKINNON: Yes.

THE COMMISSIONER: And something had to be done because they weren't getting much business?

MR. MacKINNON: That is right.

THE COMMISSIONER: Who said that?

MR. MacKINNON: 6806, Mr. Herman's evidence, line 26, and that is Volume 32.

"Didn't your clients tell you --- "

This is a question --

" --- that it was important something

"be done, that they were going to go

"out of business?

"A. They did not use those words,

"but it was important something be

"done, of course.

"THE COMMISSIONER: Who told you that?

"A. In the course of a half dozen

"conversations, my lord, but --

"McDermott had told me that, Feeley

"had told me that, Mr. McLaughlin,

"Mr. Gardner Senior, Mr. McKay,

"and there was some people that

"reported that from some of the

"incidents in Cooksville. I just

"cannot remember who they were.

"THE COMMISSIONER: Something had to

"be done as they were dying a slow

"death?

"A. Members did not want to come

"out to the club because of the

"police there."

Q. Then in that connection, the issuance of the charters, was any investigation made with the Central Command of this Veterans Association to see what they were doing about these branches at that time?

A. Possibly not at that time, but during the regime of Mr. Magone, my predecessor, I think a Mr. McGovein, or McGovern -- a name similar to that, a lawyer in British Columbia, in Vancouver -- who held I think the presidency of the Army, Navy and Veterans Association, was sent to Toronto and he was

advised of our suspicions and a great deal of the material that we had in our possession was revealed to him, and my recollection is that -- Mr. Magone probably can testify more accurately as to this -- that after they had considered the matter that they found nothing wrong, so we came to the conclusion we could expect no hope or no help from the Dominion Command.

Q. That, according tothe evidence we havehad, was I believe in 1955.

A. It was some time prior.

Q. I am talking about two years later.

A. I don't think so, I don't think so. Not to my knowledge, in any event. There might have been but I am not aware of any.

Q. Mr. Gardner, when he was asked about the possibility of losing his charter, and the necessity of getting a new one, losing his charter by virtue of some action taken by Central Command, he said certainly that it was a very real possibility, there was talk of that, and the question I asked him:

"All right; so this was to make "sure that you had a bird in the hand --- " I guess I meant the Provincial charter --

" --- namely, a provincial charter?

"A. I am going to answer that question "by saying we wanted to stay in "business.

"Q. And this was the way you were "going to do it, get the provincial "charter and stay in business?

"A. I would say that is practically "right."

MR. MacKINNON: Now, that is page 1992.

THE COMMISSIONER: 1992?

MR. MacKINNON: 1922.

THE WITNESS: As I recall, Mr. MacKinnon, that is a condition precedent and that was imposed I think by Mr. Cudney, a condition precedent to the issuance of the Ontario charters, that they were not to take any action of establishing club rooms, as I recall it, in respect to the Dominion charter they would not be asked to surrender. And I don't know whether those charters are still in existence. They are not charters, they are authorities. I use the word "charters" ---

MR. MacKINNON: Licences?

A. --- in a loose sense, but it was very well understood they were not to operate under the Dominion authorities.

Q. No, but what I am putting to you,

did you have any information that quite apart from any act on your part, of the Attorney General, they were going to lose their licence?

A. None whatever.

Q. And there was no investigation made of that?

A. There was no investigation although I understand that Anderson, I understand, said that he had gone to Ottawa, I think around 1958, and made some investigation and got some assurance that some individual when he became president was going to cancel these authorities. That was Sergeant Anderson's diary or letter.

THE COMMISSIONER: Q. At the time of the issue of the provincial charters the Attorney General's Department, as I understand your evidence now, had no indication these licences -- whatever you want to call them -- from the Dominion Command were in jeopardy?

A. None whatever, sir.

MR. MacKINNON: Q. Did it surprise you these people were willing to give up their licence and accept a provincial charter?

A. It did.

Q. Was there any explanation given to you as to why they would do this?

A. No. This was a request by the Attorney General. He challenged, as I said this morning, he challenged Mr. Herman if his client had nothing to hide,they should have no compunction whatever in coming under provincial jurisdiction.

Q. Incidentally, so far as the Criminal Code is concerned would it make any difference whether they had a provincial or federal charter?

A. No, it wouldn't, except that the Ontariocharters, of course, with the three clauses, were of a highly restricted nature.

Q. I am talking about the Criminal Code.

A. If they were a duly incorporated social club it would make no difference.

THE COMMISSIONER: Q. That is not the whole picture. If they were operating under a provincial charter -- you were boss of your own house, soto speak -- you could impose such conditions as you thought were advantageous?

A. That is right, sir.

AA/B 4

Q. To that extent it did make a difference whether they had a provincial charter?

A. It did. I thought Mr. MacKinnon was excepting the three restrictive clauses.

MR. MacKINNON: Yes, I prefaced my question on the Criminal Code.

THE COMMISSIONER: I am not questioning that, Mr. MacKinnon. I am saying that so long as these restrictions were made part of the original charter, it did make a difference.

MR. MacKINNON: Q. Now, I think maybe it comes in in time. In your interview with Magistrate Thompson, do you know the year?

A. Magistrate Thompson said the incident took place in March or April of 1959 and I take it -- I made no diary entry myself or made no memorandum at the time -- but I would fancy it was in April, 1959, around that time.

Q. Magistrate Thompson in his evidence at page 4674 said that you intimated to him that Maloney, that is Mr. James Maloney, had been in the hair of the Department, as I recall his phrase, for some time. Did you make a statement to that effect?

A. I may have made it, Mr. MacKinnon. I don't know. I won't deny it.

Q. Would it have been true if you had made it?

A. Mr. Maloney was a pretty forthright defence counsel and, I might say, he left very

few stones unturned in the interests of his clients and it may well have been. I might say this, as far as the matters under investigation by this Commission in regard to gambling, I must say in fairness to the late Mr. Maloney he never approached me once in connection with the gambling charges or anything associated with it.

Q. In connection with these gambling clubs?

A. No, sir. He never importuned me at any time. Probably with this exception, he might pass in the hall and say, "How is the case going?", or something like that, but beyond that, no.

Q. Were you advised at the time that it happened when the cancellation of the Centre Road Vets Club charter was being considered that Mr. Maloney, according to Mr. Cudmny, had telephoned Mr.Cudney?

A. I don't recall that.

Q. Mr. Maloney did not, I take it, then, make a similar plea to you?

A. No, sir, he did not. Most emphatically no.

THE COMMISSIONER: Q. Perhaps he knew you too well?

A. I hope so, sir.

MR. MacKINNON: Q. Do you know whether

he made any such plea to any one else in the Department?

A. I have no knowledge of that, sir. The first intimation I had of Mr. Cudney's experience was what I heard in this courtroom.

Q. Now, you stated -- I believe maybe I omitted it -- that in regard to your issuing of the new charters, or the approval of them, in 1957, to these three gambling clubs that Herman was suggesting a quid pro quo, as it were, for them giving up something they had?

A. That was discussed, yes.

Q. And you say there was no such undertaking, I believe was the word you used, given? Is that correct?

A. I would say that there was no understanding given by the Attorney General at that time or any other time that I can recall.

Q. Well, in effect, Mr. Herman, I suppose, in the end result, did get a quid pro quo, did he not?

A. As a result of the meeting of July the 12th, a policy in regard to this taking of names and taking licence numbers, questioning people who were intending to go into the premises was discontinued without

any restriction on the Anti-Gambling Squad to make raids and investigations at any time without leave of the Department or any other person.

Q. Now, the words that Mr. Anderson, or Sergeant Anderson, used in his diary entry on July 12th is that they were to be given chance, present action to be cancelled to follow again if traffic warrants same. Was that the idea, they were to be given a chance?

A. They were to be given an opportunity to prove their bona fides under these new charters that had these restrictive clauses. I think you will find, if you will look at the schedule of raids, they didn't last very long because the raid took place at the end of July or the beginning of August and we were not quite satisfied as to their bona fides.

Q. Are you talking about the clubs generally, or Cookeville in particular?

A. I am talking about clubs generally, sir.

Q. Now, also in 1957 you mentioned this interview that you had with present Inspector Hatch. He was a sergeant then?

A. That is right.

Q. And Marsland and the other District

Inspectors?

A. That is right.

Q. At which time Hatch requested that he not be called on to make reports?

A. That is right.

Q. Now, did I understand you to say that Hatch was suggesting that there were leaks as a result of these reports being forwarded?

A. I can't recall that. I was suspicious myself there were leaks around that time somewhere, and when Sergeant Hatch, as he then was, made this request I went along with it without any equivocation whatever.

Q. He so stated.

A. That is right.

THE COMMISSIONER: Q. There was no doubt as to what motivated him in making that request?

A. No question about that, sir.

MR. MacKINNON: Q. Were you subsequently informed -- you stated you don't remember anybody asking Hatch for the name of a person or the informant Hatch had in mind. We have had, I believe, Inspector Ramsbottom too, and Inspector Hatch both swear it happened. Was this reported to you after it had happened?

A. No, sir, it was not. The first

I heard of that was in this room, sir.

Q. Now, you were then -- once again chronologically -- taken through the Scott diary?

A. Yes, sir.

Q. And you stated that you agreed that you felt the matter should not be allowed to go on, the charge should be laid against Wright. Is this a correct summary of what you stated this morning?

A. I would think so, yes. We felt this, that Wright was in the role of an agent provocateur.

Q. Scott, you mean?

A. I am sorry, Scott. And we knew, we were satisfied ourselves as to what was taking place, and we felt that this matter could not go on interminably, there had to be some finality to it, keeping in mind at the same time an equal interest in the involvement of McDermott and Feeley, and we felt -- by that time a thousand dollars had been paid allegedly by Wright to Scott -- and it was felt in our best judgment we could apply to the matter at that time that the time had come when we should take some action.

Q. Well, talking about Feeley and McDermott, I suppose at that stage atleast

you were well aware, and your Department, that these people were considered to be the kingpins, if I may use that expression?

A. I suspected that but, Mr. MacKinnon, we had no direct evidence of that, but we were pretty well confirmed in our mind who was the head of it.

Q. Was it not considered to be important to you at that time that these people be trapped, Feeley and McDermott?

A. Oh, yes, if possible. Yes.

Q. Wasn't that a consideration that would have lent weight to a continuation of Scott's investigation until he had ---

A. It might well have been.

Q. --- completed it?

A. But as events have turned out, it wasn't necessary because at the time we terminated the investigation -- I don't like that word "terminated" because it may have some sort of a sinister aspect in some people's minds -- that the cessation of that investigation, as it now turns out, with a subsequent police checking and the police investigation, sufficient evidence was forthcoming to convict the three of them, and as you probably now know the appeal was to-day dismissed and our appeal, by the way, against the acquittal of Wright was allowed, and I

think it justifies our position that we did have sufficient evidence at that time to warrant the laying of the charges against Wright and the subsequent charges against McDermott and Peeley.

Q. But at that time I understood your conclusion was you were just laying charges against Wright?

A. That is so.

Q. That is what in effect happened?

A. That is quite true, but we were not unmindful of our responsibility to endeavour toget sufficient evidence to convict McDermott and Peeley.

Q. Then at that time in 1960, when the steps were being taken leading up to the cancellation of the Centre Road Vets charter, your evidence is, and the evidence we have heard, is that the evidence was turned over to you to be considered?

A. That is so, yes.

Q. Is that a usual practice?

A. No, that was not. Up to, prior to that time, as I recall it, Mr. Cudney -- may I put it this way, Mr. MacKinnon -- there was a meeting in the office of the Attorney General. I am sorry I can't give the exact date. Some time prior to that.

Q. January, wasn't it?

A. It might have been January, when this whole question of cancellation of provincial charters was discussed. There was a great divergence of opinion among not only government people but other people.

Q. This is the one Police Chief Mackey attended?

A. He was not there. It was attended by the Attorney General, the then Provincial Secretary I think, Mr. Cudney, Mr. Boman and myself, and maybe Mr. Levine was there, I'm not sure, from Mr. Cudney's department. The whole question was discussed as to whether charters might be cancelled for, let's say, mere suspicion of violations of the Criminal Code or their conduct was such that in the opinion of the authorities that they were not carrying out their duties or their responsibilities in a proper way. There was some discussion both ways that we should wait for a conviction. Others discussed the question whether suspicion, if you will, would be sufficient, and it was resolved, as I recall, at that meeting, or a subsequent meeting, that where there was circumstantial evidence of such a character that might justify the Provincial Secretary in cancelling those charters the evidence would be supplied to us after an investigation by the

Provincial Secretary and we would make a recommendation. Now, it was pursuant to that arrangement that the evidence in this particular case was submitted to me.

Q. This was the first occasion it had happened?

A. Well, there might have been some some time ago but this is the first one, I think, pursuant to that meeting.

Q. I see. Have there been others since?

A. Mr. Bowman might be in a better position to answer that. I can't recall. As far as I am personally concerned, that was the only one.

Q. This is the only one you ever wrote a report on?

A. Yes, that is right.

Q. Now, we have had evidence here of reports made with regard to Inspector Stringer and his conduct. Were those reports ever drawn to the attention of the Attorney General's Department?

A. What specific report, Mr. MacKinnon?

Q. Well, as to the approaches to Corporal Shrubb, as he then was?

A. No, sir.

Q. And Sergeant Hatch?

A. No. I might say, Mr. MacKinnon,

I never knew of the existence of those reports until the commencement of this Commission or the incidents mentioned in the reports.

Q. With regard to the Ramsay Club, were you ever spoken to in that connection in the summer of 1958, May, June, July?

A. No, I wasn't.

THE COMMISSIONER: I don't understand that question, "Were you ever spoken to in that connection?"

MR. MacKINNON: Q. In connection with the Ramsay Club and putting it out of business. You may remember there were a number of people telephoned apparently in the summer months and then it was raided. As a result of that there was what has now become known as the Ramsay brief. Was any contact ever made with you in connection with that club at that time?

A. No, sir.

Q. No.

A. As a matter of fact, I was myself in great confusion as to what the Ramsay Club was, because it was moving around so much. I knew very little about the actual Ramsay Club. So far as the brief is concerned, I knew nothing whatever about that until the preliminary hearing.

THE COMMISSIONER: Q. You had learned

about it in the Scott reports?

A. Well, the Scott reports that came out, yes, at the preliminary hearing.

MR. MacKINNON: Exhibit 276, which is dated April 27th, 1960, I believe you stated that you kept it rather than delivering it to your Minister for some weeks?

A. Yes, sir.

Q. Until Wright was arrested, is that correct?

A. Well, it was at the time the arrest of Wright was imminent. Whether he had actually been arrested -- he might have been arrested because my letter to Mr. Cudney I notice is dated the 30th of May and I might have held that letter up to the 24th, 25th. It certainly was held back until after the information against Wright was laid.

Q. I see. And yourreason being that if it had gone forward and the charter been cancelled, this might have upset ---

A. It might have prejudiced the investigation. That is what I felt at the time.

Q. But Scott was giving information with regard tomore than this club, wasn't he? Wasn't he?

A. Oh, yes, sir.

Q. They wouldn't have been completely

out of business, as it were? That is, the people to whom he was giving information?

A. Well, as I recall it, of course, the Roseland ---

Q. No, the Ramsay Club and the Centre Road Club. Apparently, according to the reports we have had in the evidence, Scott was giving information first to Wright and then to McDermott with regard to raids on those two clubs?

A. Yes.

Q. So if the Centre Road Vets Club went out of existence the Ramsay Club presumably would be still in operation?

AA/6 A. The Ramsay Club, as I recall, Mr. MacKinnon, was not under our jurisdiction. That was a Dominion charter.

Q. It was a Dominion charter? As far as getting information?

A. You might be right about that. I can't express an opinion on it.

(Page 11785 follows)

MR. MacKINNON: Q. In your experience can you tell us of any other occasion in which the Attorney-General of the day has requested the issuance of Provincial charters?

A. No, sir.

Q. To the social clubs?

A. No.

Q. These are the only times, these three clubs?

A. These are the only cases that we were concerned with to a very great degree on the existence of alleged gambling within the Province.

Q. Oh, yes. There was one other subject that wasn't touched on by Mr. Wilson. Possibly you can assist us. We had some evidence that there was a request made to the members of the anti-gambling squad to affirm their confidence in the Attorney-General or the Attorney-General's Department. I am not sure which. Did you play a part in that?

A. Yes, I did. I asked Commissioner Clark, and that was purely an innocuous request. I had enjoyed the confidence, I think, of all senior members, officers of the Ontario Provincial Police over a great number of years and this was just an offhand remark to Commissioner Clark. I said, "What do the boys down there think about it," after the trial

and so on. "What is their attitude? You might make a quiet investigation." I had completely forgotten about it. This started into a full-scale inquiry.

Q. You didn't intend the anti-gambling squad should make a full-scale inquiry?

A. Most decidedly not. I wanted to know what they thought of our boys in the Department. It was never intended to have any inquiry as it came out here.

Q. And this was not discussed with your Minister, I suppose?

A. No, not the slightest.

THE COMMISSIONER: Q. You didn't intend Commissioner Clark to interview each one and report back to you?

A. No. I just wanted to get the atmosphere.

MR. MacKINNON: Q. Did he report back to you?

A. Yes, he reported back to me and we had some misgivings at one time, but at that time everything appeared to be quite in order and quite satisfactory. It was one of those informal and impersonal sort of inquiries that probably should not have been made, but I wanted to satisfy myself, as Deputy head of the Department.

MR. MacKINNON: That is all, thank you.

THE COMMISSIONER: Mr. Lawlor?

EXAMINED BY MR. LAWLOR:

Q. Mr. Common, take your mind back to the occasion you mentioned you were called in by your Minister to the office and Louis Herman was there. As I understood your evidence, that conversation was already in progress?

A. That is so.

Q. You don't know how long that conversation had gone on when you arrived?

A. That is correct.

Q. So a good deal of discussion could have taken place between the Attorney-General and Mr. Herman as to the issuance of these charters before you arrived?

A. I can't say, Mr. Lawlor, about that.

Q. So far as you know, Mr. Common, at this stage then it was quite possible that Mr. Herman made the first overture with respect to these charters?

A. Anything is possible. To reiterate what I said this morning, when I got in there the atmosphere was charged, a very

tense atmosphere and the Attorney-General was berating Mr. Herman in no uncertain terms for his clients hiding behind Dominion charters when they could have come under social charters in Ontario with more restrictive charters.

Q. Was Mr. Herman resisting these statements?

A. Well, he was arguing, as I recall, that he should be entitled to remain under the Dominion jurisdiction, but after a short time he told the Attorney-General that he would consult with his clients and get their instructions.

Q. How long thereafter, Mr. Common, in your recollection, did it take Mr. Herman to arrive at a decision to accept the charters?

A. I would think in a matter of two or three days, I would think.

Q. In conversations with Mr. Herman on that occasion or any subsequent occasion connected with these charters, did you consider or did you ask Mr. Herman why -- or who his principals were?

A. I don't recall any specific question in that regard. We suspected who his principals were. We suspected who his principals were, although we had no direct evidence.

Q. Who did you suspect?

A. McDermott and Feeley, although we had no definite evidence.

Q. Did you suspect them, vis-a-vis, the Windsor situation and the Niagara Falls situation?

A. No. I think I can quite truthfully say, as far as I was concerned, I never associated McDermott and Feeley with either the Roseland Club or the Frontier Club.

Q. Nevertheless, some solicitor was appearing before you on the same occasion withrespect to those three charters?

A. That is so.

Q. Did you not think it was strange?

A. Did I think it was strange?

Q. Yes.

A. Not necessarily.

Q. Did you assume on that occasion he was acting for the same or similar principals in three instances?

THE COMMISSIONER: What do you mean by similar instances?

MR. MAYLOR: Q. Similar. All right, the same.

A. I didn't assume anything. The incorporators or at least the officials or officers, rather, of the various clubs, were the ones that we assumed were his clients, although we suspected that McDermott and Feeley

were the operators, certainly insofar as the Centre Road Club is concerned. I always associated Gardner with the Roseland Club. I couldn't associate anybody with the Frontier Club. As far as I was concerned, I associated McDermott and Feeley with the Centre Road.

Q. You didn't question him as to who the moving powers were?

A. No. I didn't think it was necessary.

Q. Mr. Herman, I take it, knew quite conclusively when he left that office, what conditions were going to imposed on those charters?

A. He knew that if he consented to go under Ontario jurisdiction, that on the Ontario charter there would be the three restrictive clauses which were not in the Dominion authorization of the Dominion charters.

Q. This was discussed with him by the Attorney-General or yourself?

A. Yes, very definitely. The Attorney-General gave the particulars, released shortly after, which is in evidence now, for the reason for the consenting to allow these people to come under the Provinaial jurisdiction.

Q. Mr. Common, as Deputy Crown Attorney ---

THE COMMISSIONER: Deputy Attorney-General.

THE WITNESS: Deputy Attorney-General, not Crown Attorney.

MR. LAWLOR: Deputy Attorney-General.

Q. Did you at any time after July, 1957, when these charters were issued, did you take any direct or personal interest in seeing whether the clauses, of which you have spoken in the charter, were being abided by?

A. Did I, personally?

Q. Yes.

A. No, I relied on police action. It wasn't brought to my attention, I will put it this way, by the police .

Q. Did you give any specific police instructions, to the Ontario Provincial Police or any other policeman, directly under your surveillance, to watch this situation with regard to nuts and bolts, (sic) etcetera?

A. The police were aware of the restrictions contained in the Ontario charters.

Q. Answer my question, please, Mr. Common. Did you give specific instruction in this instance, say with respect to the Centre Road Club, to watch it?

A. For infraction of the restrictive clauses?

Q. For the charter restrictions.

A. I can't recall giving any specific instructions in regard to the Centre Road Club,

but I again repeat the police were aware of the restrictive clauses in the Ontario charter, and in my opinion, that was enough.

Q. Mr. Common ---

A. From there on it was a police action.

Q. Would it be fair to say the issuance of these three charters was an extraordinary procedure?

A. Would you please repeat that?

Q. Would it be fair to say the issuance of these three charters was quite extraordinary?

A. It was extraordinary in this regard, as Mr. Mackinnon just asked me, whether in my opinion it had ever been done before. We had never been confronted with this situation before and it was an extraordinary situation. And may I put it this way, an extraordinary situation meant, as you put it, an extraordinary remedy, as we call it.

Q. You realize for a period of three years thereafter, the evidence before us has been that this place was highly barricaded and that no evidence or nothing came, apparently before you or as far as we know, the Provincial Secretary's Department, indicating that the clauses in this charter, the three of them, were in continuous contravention. A three-

year period elapsed thereafter. Is the statement I am making about that correct?

A. I don't know how accurate your statement is, but I again repeat that the Provincial Police were aware of the restrictive nature of the clauses in the Ontario charters and it was up to them, within their jurisdiction, if they had evidence to bring it to the attention of the Provincial Secretary or myself. And in 1959 it was so brought, some two years after, it is true.

Q. You didn't feel there was any necessity to give specific directives with respect to these three clubs to see they were getting a lease on life and that they would accord with the terms and conditions?

A. I can't recall any specific instruction. I can only reiterate the police were aware of the existence of the restrictive clauses in the charter.

Q. The police were informed, of course, that these clubs were ---

A. I am sorry?

Q. The police were informed that these clubs were now under Provincial charter?

A. The police were informed?

Q. Yes.

A. Oh, yes, and the nature of the restrictive clauses.

Q. You mentioned anonymous letters by way of complaints coming to your Department. If I was desirous of seeing such letters, would they be available?

A. I doubt it. Over a period of years, there were very, very few.

Q. You didn't keep them?

A. I won't say they were destroyed. They may be around somewhere. I have not seen them recently in going through the material for this hearing.

Q. When Mr. MacKinnon was asking you questions with respect to Inspector Hatch, you said that you were suspicious that there were leaks?

A. Yes, I was.

Q. Could you be more specific for us?

A. I was suspicious because Hatch, by the very nature of his questions, shared the suspicion that I had, because I had received some complaints before that, that there was a suggestion of leaks at the anti-gambling squad level. This was rumour. This was suspicion. Nothing pinpointed. But there was a feeling that there was something in the nature of leaks, and when Sergeant Hatch asked for the permission to not conform with the usual police method of making his report I knew he shared the suspicion that I had.

Q. Is there any specific instance that you recall?

A. I can't recall. As I said, I can't point anything at all. It is a matter of, shall we say, rumour. In other words, I was not surprised when Sergeant Hatch made the request that he did.

Q. Now, so far as you are concerned, there wouldn't be any intimation of any leaks proceeding from the senior members in your Department?

A. No, sir.

Q. You never had any peradventure of doubt about that?

A. I had no evidence about that. I had no suspicion of that at all.

MR. LAMLAR: Thank you very much, Mr. Common.

THE COMMISSIONER: Mr. Wilson?

MR. WILSON: Just two very brief matters.

EXAMINED BY MR. WILSON:

Q. I show you a letter from Mr. Ullman. It is not dated, but it seems by the text of the letter to fix the date pretty well as of around July 29th, 1954.

A. I notice this is Gardner's. I thought it was Finnegan's. I see it is Gardner. Yes, that is the letter.

Q. That is the letter addressed to Inspector ---

THE COMMISSIONER: From whom?

MR. WILSON: From Dr. Ullman to Inspector Tomlinson, undated.

THE COMMISSIONER: Undated.

MR. WILSON: In the opening paragraph it just refers -- this statement in the first paragraph:

" I examined Mr. John and Robert "Gardner on July 29th, 1954, at "two a.m. in the Hotel Dieu Hospital "at the request of the O.P.P. "of Essex."

A. I thought it was Finnegan but I see it is Gardner.

---EXHIBIT NO. 277: Undated letter from Dr. Ullman to Inspector Tomlinson.

MR. WILSON: In order that we have something on the record, does your knowledge of the fact that these charters were being issued prior to July 12th, 1957, the meeting you had with Sergeant Anderson -- I show you a copy of a memorandum you made on July 12th, 1957, to the Attorney-General. (Produced)

The original of this document, I presume, will be brought here by the Attorney-General tomorrow or later today, as the case may be.

MR. MacKINNON: Is this an exhibit?

MR.WILSON: It is not an exhibit.

THE COMMISSIONER: Let me see that.

You can get that from the Attorney-General.

MR. WILSON: Q. There is one point, Mr. Commissioner, I see you had a heading: "Suspected Gambling Clubs", and in the body of your memorandum you refer to the three clubs?

A. That is right.

Q. There is no question in your mind they were suspected?

A. No doubt whatever.

Q. And also in the opening sentence: "In order to keep you informed in this matter and pursuant to our telephone conversation of the 11th instant, I understand from the Provincial Secretary's Department the following Provincial charters are being issued".

A. That is right.

MR. WILSON: That is all, thank you.

---The witness retired.

MR. WILSON: Now I will call Mr.Bowman.

WILLIAM C. BOWMAN, recalled

THE COMMISSIONER: Mr. Bowman was sworn originally.

MR. WILSON: Yes, he has been sworn and has given evidence and he has dealt with the specific issues arising out of question 2, and he has also dealt with the telephone calls referred to in Exhibit 121, I think it is.

EXAMINED BY MR. WILSON:

Q. Now, I direct your attention to the problem of the pinballs.

A. Yes.

Q. And I want you to explain the policy of your Department in regard to pinballs. We have in evidence two directives or memos. The first one was in 1956. Have you got a copy of that one with you?

A. No. It may be in some of the material. Mr. Wilson, have you got a copy of the material? There was two directives given to the Provincial Police in regards to the prosecutions on pinball machines.

THE COMMISSIONER: You may find it in 224.

MR. WILSON: 224 is the first one I have reference to.

THE COMMISSIONER: 224, 225 and 226.

MR. WILSON: 224, 225, 226 and 227 are

the exhibits, and also 228.

THE COMMISSIONER: And 229.

MR. WILSON: 229 gets us over to 1959.

THE COMMISSIONER: Yes, that is right.

MR WILSON: Q. First of all, dealing with the situation in 1956, will you tell us briefly what the history of this problem was from the point of view of your Department?

A. Well, prior to the coming into force of the new Code, the ordinary pinball machines, as we generally understand them, where there was no prize, no token or no slug emitted, and where they were not patently designed for gain, were not illegal under the old Code as it existed. There were a number of prosecutions and it was formally decided by the courts that these pinball games for amusement only, even though they be games of chance and mixed chance and skill, nevertheless were not illegal and were not slot machines as prohibited by the Code.

If I may read an excerpt from the judgment of Chief Justice Robertson delivered in 1939, in the case of Rex vs. Levine, 72 Canadian Criminal Cases, page 312. The Chief Justice said this:

"In one way and another -- "

THE COMMISSIONER: Q. What year was that?

A. 1939.

MR. WILSON: Q. You are referring to his judgment at 317?

A. Yes.

"In one way and another many wise "people spend a good deal of time "and money in obtaining amusement, "and to a normal person it is "almost one of the necessaries of "life. In my opinion it does no "violence to the language of the "statute in question to say that "an automatic machine that does "nothing to amuse is a machine "used, or intended to be used, for "vending services, and is therefore "excluded from the operation of the "subsection."

Now, that passage in that case was considered in the Supreme Court of Canada in Laphkas and The King, decided in 1942 and which is reported in 77 Canadian Criminal Cases at 142. In other words, what the Court held ---

THE COMMISSIONER: Q. The name?

A. Laphkas.

Q. Spell that.

A. L-a-p-h-k-a-s. Laphkas vs.The King. There the Courts held, essentially, that there was nothing immoral or nothing wrong with playing games for amusement and it

did not offend against the Criminal Code.

Q. That is the old Code?

A. That is the old Code, quite.

In the course of the revision of the Code the Commissioners recommended change of language in the form in which it is today, and they recorded this with respect to the paragraph:

"Your Commissioners have considered "gaming sections of the Code. While "we are of the opinion that these "sections contain certain inconsistencies "and anomalies, we have suggested no "substantive changes because of "the controversial nature of the "matters involved."

Then the Senate Committee dealing with the same section indicated it was changed in form only, and when the bill was introduced, when the new Code was introduced in Parliament, the Minister of Justice said there was no change, it was a mere rearrangement of language.

Q. Is that reported?

A. Yes, reported in Hansard, 1954, page 2411. The Banking Committee is reported -- The proceedings of the Senate Standing Committee on Banking and Commerce, June 10th, 1952, at page 21.

Q. Who was the Minister of Justice?

A. Mr. Garson, I believe, my lord.

Now subsequently the case of Isseman against the King.

Q. Spell that.

A. I-s-s-e-m-a-n.

Q. Isseman?

A. Yes, Isseman.

Q. What year was that?

A. In October, 1956. It was decided and it was recorded, as I have it, in 24 of the Criminal Reports, Canada, page 347, and there the Supreme Court of Canada held that notwithstanding what would be the apparent intention of Parliament, as indicated by the various committees in the Minister of Justice, nevertheless amusement, these pinball machines, were games of chance and mixed chance and skill and not purely skill, were illegal as slot machines if they were games of chance and mixed skill and chance. Where a different result might be arrived at by the operation of the machine. It was beyond the contrâl of the operator.

Q. Under the old Code you could have a game of mixed skill and chance and if there was no prize, it would be legal?

A. That is true. That is what the Levine case held. But here there was this re-arrangement of language made the provision of providing for services, or where

services were provided, it was held under the new Code, the providing of a service was the prize.

Q. Was the prize, and it would give you a chance to play the game over again?

A. That is right. In any event, that was the ultimate situation that developed from the decisions of the Courts and from the change in the Code.

Now, these first years in the Department, in September the question arose as to the possible changes made by the Code, arose in September of 1956. Sergeant Anderson suggested to the then Commissioner McNeil, that pinball machines, that is ordinary ones where you simply get amusement for your money or chance of amusement, that such machines were illegal under Section 1701 of the Code and, in effect, came within the same category as the one-armed bandit, at which the Code was clearly aimed. When that came to the attention of the Department, consideration was given then to the background of this section as to whether Sergeant Anderson was right in his suggestion.

It appeared to the then Deputy Attorney-General that he well might be right, but nevertheless that this appeared to be an inadvertent change and being completely unintended it was a

serious problem proposed on law enforcement which was not intended to be created.

So as a result of this the then Deputy Attorney-General had a conference with Commissioner McNeil at that time, and in the final analysis decided to leave things as they were and not to prosecute on the basis of these machines unless there was actual gaming resulting. That is, several people around betting on the results of the machine. At the same time the Attorney-General wrote to the Minister of Justice and pointed out it would appear that Parliament had inadvertently changed the Code, and suggested if this was so, that the Department of Justice might consider having it changed back to where it was.

MR. WILSON: Q. When did he first communicate with the Minister of Justice in that regard?

A. On October 24th, 1956.

Q. Yes?

A. Now, from then on the police did not, as far as I know, make any campaign of trying to charge storekeepers with keeping a common gaming house on the basis of a pinball machine that only provided amusement with no element ofgain, as is normally understood. However, in 1957, a situation arose over in

Welland County where the Crown Attorney there felt that the operator, that is, a distributor of these pinball machines, was a racketeer, and he thought it would be in the interests of the County to prosecute. The result was to get those pinball machines out of operation there as they were being operated. In July, 1957, there was a single prosecution instituted at Niagara Falls and there was a conviction and those machines disappeared.

Now the next incident arose two years later.

(Page 11806 follows)

cc/1/sew

THE COMMISSIONER: In '59? Two years later?

A. Yes, my lord, in March of 1959, the Provincial Police in the Pembroke area seized a very large number of these pinball machines and charges were laid against every storekeeper who had one of these machines in his possession in the store. I think there was some - between 30 and 40 charges laid in the whole area. The storekeeper was charged with keeping a common gaming house. In some of the cases, I may say, in the final result it was found that some of the games were games of pure skill, and there were acquittals. In others, they were found to come within the Isaman case, and there were convictions, but while some of the prosecutions were pending in Pembroke County, Mr. Hamilton, who was the Member of the Provincial Legislature there telephoned to me and this was on June the 23rd, 1959, and he said that he considered it unfair that these machines were permitted to operate for five or six years, and nobody there had ever considered them to be illegal or causing any real problem, and he said to crack down at that time and simply to seize all these machines and lay a great number of charges against the storekeepers, he said that he thought it was wrong and he asked me if I would look into it.

On June 24th of 1959 I wrote to the Commissioner of Police, Ontario, and to the Crown Attorney, Graham Walsh, asking for reports on the matter. Mr. Walsh wrote back and generally advised that he was of the view that it would be adequate and would serve the proper purposes if one charge was laid in each court in the County of Renfrew; that would be four or five charges, and that the rest of the charges be withdrawn. He was of the view that he would have served the general purposes to establish these machines were in fact illegal and that the storekeepers who had them would be subject to prosecution and effectively, and that he suggested the ---

THE COMMISSIONER: He suggested how many --

A. No, he suggested,my lord, one in each court. I think there were four or five courts there - that is one in each area in the County. So that was done. Mr.Walsh indicated to me that at the time he talked it over with the Provincial Police and the Provincial Police were satisfied with his approach, and as in Welland County, the machines disappeared from the County.

MR. WILSON: Q. We have as an exhibit, 229, show it to the witness, please, a directive or memorandum from W.C. Bowman, yourself, to

the Commissioner Clark re pin_ball machines dated 15th October, 1959.

A. Yes.

Q. I take it that that was in response to, or in reply to the request from Commissioner Clark for some direction as to what position was to be taken after the lectures given at the Police College.

THE COMMISSIONER: Twenty what?

MR. WILSON: Exhibit 220. The request was on 228.

A. Well, that was essentially the position of the Department as set out in the letter and this was on this basis that we were faced with pinball machines which were technically illegal, and the possession of them technically and effectively made the owner of the grocery store liable to conviction.

Now in the two counties of which I am aware, it was considered locally to be a bad thing. They were gotten rid of by prosecution, and there was no reason why anybody who wanted to prosecute anywhere else, be it the Provincial Policemen or a private citizen, there was nothing to prevent the laying of a charge, but we did not feel that this was a case where the anti-gambling squad should go about the country for the sole purpose of catching local grocery store operators

and charging them on the basis of these machines.

THE COMMISSIONER: The warning locally to the grocery store or the gasoline station operator would suffice?

A. Quite, my lord, quite.

MR. WILSON: Q. Then we have an exhibit in evidence of Inspector Whitty as to the seizure of certain machines and that would be in the Renfrew District?

A. That would be in the same area.

Q. The same area that he has told us that he asked for instructions to the disposition of the machines and he received a teletype from General Headquarters, Exhibit 247:

"Retain the machines until further "instruction. Expect to obtain "decision for you within the next "six weeks."

Sent by Sam Phelps, executive officer of the Force and Mr. Whitty has told us it wasn't for approximately a year before he got instructions to destroy the machines. Now I understand you know something about that?

A. Yes, I think what happened there was simply this, that when we got the call from Mr. Hamilton about that action that had been taken locally on large scale, I telephoned,

and I did write to the Commissioner a formal letter. I made two attendances to Mr. Phelps, but I also telephoned him, so that if there was any situation where justice should be secured, that Mr. Phelps would be aware of the right of way.

There may also have been the question of application - I don't recall specifically, but it may well quite be, may be quite well be that there was mention of some other machines that had already been confiscated. The suggestion - perhaps application might be made to Ottawa for executive clemency, which means of course that they could be returned to the owner.

Q. Now I am not clear as to whether I have had you explain what Mr. Garson, then Minister of Justice, did with respect to the representations made to him?

A. Nothing.

Q. Following the Inscman decision?

A. Nothing was done so far as I know. At least, the Code was not changed, but what was done in the Department of Justice - I do not know the mechanics of it - I don't know, but I do know that certainly the result was not the amendment suggested.

MR. WILSON: That is all.

THE COMMISSIONER: Mr. MacKinnon?

EXAMINED BY MR. MacKINNON:

Q. Just in that connection with the last matter, the pinball machines, do I understand you to say that you gave instructions to Mr. Phelp that he was to advise Inspector Whitty not to destroy these machines?

A. Yes.

Q. Some apparently had already been destroyed at this time?

A. Perhaps there had -- perhaps they had.

Q. Now Inspector Whitty has advised that he had been spoken to in connection with this machine by Mr. Maloney. Did Mr. Maloney speak to you about it?

A. No.

Q. At no time?

A. No time.

Q. You are aware, of course, Mr. Bowman, that in the evidence given by Mr. Shaubb, he produced a list of telephone calls made by certain numbers which we have now established was used by Mr. Feeley, and McDermott.

A. I am aware of it.

Q. And among those calls we have established for the most part they were to these gambling clubs; to Mr. Jolley, who has admitted there probably was a phone call made to him and he remembers it, and McDermott

admits that he may have made a phone call to Jolley, and a phone call to the Windsor Club as well, and to Gardner down there. A phone call to Mr. Jim Maloney and Mr., I believe, McDermott admitted that had been made by him. I believe there was one phone call to Mr. Rome and there were two phone calls to yourself.

THE COMMISSIONER: At his house.

MR. MacKINNON: Q. I am sorry, to your number, one on June the 7th, 1958 and I am not sure of the other date --

A. I am not sure of the date.

Q. I think it was June the 8th and June the 7th, June the 7th and 8th, 1958. Now do you have any recollection of any phone call made to you by either Feeley or McDermott?

A. No sense of recollection. My recollectionkis that I have never spoken to either one of them.

Q. You have never met Mr. McDermott?

A. Never met him.

Q. Either at a party or wedding or anything in that nature?

A. Not that I know of.

Q. And the same goes for Mr. Feeley?

A. Quite.

Q. All right, so far as you are concerned, you don't remember any particular - either particular phone call or any other phone

call?

A. After I heard of the dog story I thought back, and I have a vague recollection of something like that might have happened to me some time, but that is as far as it goes, whether it was last year or twenty years ago, I couldn't determine.

Q. You don't remember?

A. No.

Q. Now, we were also advised by Mr. Anderson - Sergeant Anderson - that I believe on June the 3rd, 1958, you telephoned him about the Ramsay Club?

A. Yes.

Q. And with regard to this operation, can you give me an explanation of that phone call - why you called?

A. Now which one is that?

Q. At the Ramsay Club in Niagara Falls and there had apparently been complaints made apparently by Mr. Humphrey and Mr. McDermott and his friends that it shouldn't be operating .

A. My recollection on that incident is that Mr. Humphrey came into my office complaining about what the police were doing and the way they were harrassing the Centre Road Club, and he was complaining very bitterly and wondered what the Department was going to do about it. I told him that we

would continue on and try to put them out of business. He said, "Well, why don't you treat all the clubs alike?". I said, "We would be delighted". Now he said, "Will you take a complaint with me - from me -" to which I agreed completely, and he gave me the name of this club. Now I don't recall the name of the club of my own recollection, but he gave me the name of a club, and assoon as he left and I had undertook to take the complaint, and as soon as he left I telephoned the anti-gambling squad and I haven't the vagguest recollection to whom I was talking except that whoever it was, I passed on the information given to me and I told the source of my information or the complaint.

Q. Now you knew Mr. Humphrey quite well, I take it?

A. Yes.

Q. Did he attend at your office quite frequently?

A. No, he did not. I doubt if he has been in my office four times that I can recall.

Q. Well, he called you from time to time. Let's be more specific, did he ever call you about any of the other club or clubs apart from that visit to your office in 1958?

A. No, I don't think so. I think

Mr. Hammond dealt with them.

Q. But you don't remember Mr. Humphrey ever speaking to you about these clubs?

A. No.

Q. Well, there was a search warrant, you will remember, executed with relation to Mr. Humphrey's office in 1960, and were you requested to approve the issuing of that search warrant?

A. No, I was not. I know nothing about it.

Q. At no time - I mean prior to its actual execution?

A. I had no knowledge of it prior to the actual execution.

Q. You had no discussion with Inspector Graham as to ---

A. No.

Q. -- or with Commissioner Clark?

A. No.

Q. So that when it appeared that they say they were waiting for you to give approval, as far as you were concerned you knew nothing about that?

A. That's quite true. The story is that either the Commissioner and Inspector Graham went to see Mr. Common about the form of the warrant or something. Mr. Common was completely tied up and they asked to see me

and come around to my office, and as I understand it I didn't see them that day, and they never came back.

Q. They never spoke to you about it?

A. They never spoke to me about it.

Q. Now we have heard evidence from Mr. Jolley that he did attend at your office on a number of occasions discussing generally it -

A. Well, I used to see Mr. Jolley quite regularly during the course of the Session of Legislature. My office is quite close to the Members' room there.

Q. Did he make -- I am sorry ---

A. As far as that was, my whole dealings with him have never been - I have never been out socially with him.

Q. I am not suggesting you did. I am thinking of from the point of view, did he make, to your mind, did he make a particular point of coming in to see you quite frequently?

A. No, I don't think so. I don't think so.

Q. Well, he said he would have general discussions with you, and including the gambling clubs, do you remember that?

A. I remember him saying that.

THE COMMISSIONER: Q. Here?

A. Here. But there is no discussion that I can ever recall with him about any gambling

club, except the time he came into my office or phoned me. He phoned me with respect to the seizure of money at the Ramsay Club, and he said one of his constituents - he said was hurt, and the police were improperly holding that money, and he wanted to know if there was any way in which it could be returned to him.

Q. It was Mr. Jolley who phoned you about that?

A. It was Mr. Jolley who telephoned me about that.

Q. Well now, did Mr. Maloney ever speak to you in connection with any of these clubs or individuals connected with them?

A. No.

Q. At no time?

A. At no time.

Q. He didn't attend at your office then like Mr. Jolley advised?

A. He did not, no.

Q. No?

A. No.

Q. I see.

MR. MacKINNON: I wonder if we could have Constable Moore's notebook for 1950.

Q. Maybe while we are waiting for this, I have got an excerpt from Mr. Moore - Constable Moore's diary. Do you remember the

meeting with Constable Moore, Commissioner - or with Commissioner Clark on June the 17th, 1960, and Mr. Common, at which time Mr. Common, Mr. Clark asked your permission - yours and Mr. Common's permission to raid Humphrey's office or execute a search warrant on it and that you advised him that you would decide later?

A. No, I don't recall the meeting.

Q. I am reading this from Constable Moore's notebook, and I just wondered if that refreshes your memory of Humphrey's search warrant - but you cannot recollect?

A. No, I can't.

Q. Now we have heard evidence here as to the search warrant being executed on June the 3rd, 1960, at the Bell Telephone to look and seize the toll slips in connection with Gogek's telephone number. You are familiar with that, I take it?

A. Yes, I think so.

Q. Now were you advised, either on June the 3rd or prior thereto, that this warrant was going to be executed?

A. I may well have been.

Q. By Commissioner Clark?

A. I may have been.

Q. Did you tell anyone else that this was being done, to your recollection?

A. No.

Q. Pardon?

A. No.

Q. Is your memory good enough to recall whether that was a telephone conversation or a personal interview which you received this information at from Commissioner Clark?

A. No, I - it is not.

Q. It is not?

A. No.

Q. Now we have had evidence from former Crown Attorney Walsh with regard to a drunken driving charge which he was handling and on which he took an appeal. He said at page 5735:

"A. So I attempted - I appealed "the case and took the transcript "of the case to Mr. Common.

"Q. Yes?

"A. He read it at the Crown "Attorney's convention and his comment "was, 'What's wrong with the magistrate?'

"Q. Yes?

"A. So I appealed that particular "case and I received a letter - I "haven't it here - saying I was to "stick strictly to the evidence; "and my conversation with Mr. Bossman, "he wouldn't like to take two bites

CC/3

"at the cherry."

Q. Now from what went before - reading from what went after, apparently Mr. Walsh felt that Mr. Maloney had spoken to you about that particular case and that you thereupon gave instructions to him that he was not to introduce any evidence on appeal but was to deal strictly with the transcript, is that true?

A. I did not see -- I did not write the letter. That was written by somebody else in the Department.

Q. You are familiar with that letter?

A. Oh, yes, I am familiar with the letter.

Q. But it wasn't written by you?

A. No, it was not.

Q. Did Mr. Maloney speak to someone else in the Department?

A. Not that I know of.

Q. Well, why would that type of letter be written instructing the Crown Attorney how to handle his appeal?

THE COMMISSIONER: Who wrote the letter?

A. The Deputy Attorney-General, Mr. Common. It would be written on thisbasis, Mr. MacKinnon, "That two bites of the cherry" is not an uncommon phrase, I don't think,and --

Q. That is what you said.

A. It is predicated upon this, that in every case where the Crown loses a summary conviction, prosecution is open to the Crown to try again on the trial, so the Crown can always do that. We are not limited to the question of law, it is simply a question of fairness or whatever way you want to put it.

Now the practise of the Department is this; that we do not authorize appeals by Crown Attorneys in summary conviction cases just to upset what might have been a bad decision by a magistrate, but only if the decision in question is in principle where the issue is an important issue of law, or where there is some special incident that makes this an important appeal, not the guilt or the innocence of the accused necessarily, but some particularly important issue in which the magistrate sees fit on the evidence to give a person the benefit of a reasonable doubt; we do not start over again and say, "Well, we can get this fellow the next time", as it is simply not our policy. I would assume that that is what Mr. Common had in mind when he wrote that letter.

Q. Well, in other words you never, in all these trial de novo, the Crown Attorney is always restricted to the transcript of trial before the magistrate?

A. No, no.

THE COMMISSIONER: No. No.

A. No, I did not say that. I said that that is our general policy that we do not commence appeals. Now, if it may have been - and I didn't read the transcript - that it may have been that Mr. Walsh, and I would not want to criticize him, and I want this to be made clear, but it may be that Mr. Walsh simply commenced this appeal with a view to correcting what he thought was the wrong application of reasonable doubt by the magistrate. Now if that were the case, and it happened today, and I were writing the letter rather than Mr. Common, I would write the same type of letter.

MR. MacKINNON: Q. Maybe I better read this further - I overlooked this, at page 8739, and possibly I should have asked Mr. Common this, but I have forgotten to do so:

"Q. Wasn't Mr. Maloney involved "in this case?

"A. He was trial counsel in both "cases.

"Q. Were you led to believe he "was speaking to the Attorney- "General's Department?

"A. Yes, Mr. Common told me.

"Q. Mr. Common told you Mr. Maloney

"had spoken to him?

"A. Yes.

"Q. And you were therefore

"restricted to your evidence on

"the trial de novo?

"A. I had my instructions."

From that it would appear that Mr. Maloney did speak to Mr. Common?

A. I'm not sure, but I think there may be some correspondence, and in that case perhaps he did but I am not certain of that. I know nothing of that. I havene knowledge with respect to that.

Q. But you can't remember having any conversation about that matter with Mr. Walsh, and so when he says there was a conversation with Mr. Bowman and he wouldn't like to take two bites at the cherry, you can't recollect that?

A. No. I spoke to Mr. Walsh right after he left the hearing, when he gave that evidence, and it was he who told me that he was not referring to me. I asked and found that was so, and he really meant Mr. Common and not Bowman.

Q. Yes, I see. Incidentally, with regard to the pinball machines, did you receive any representation from any of the pinball machine distributors that their machines wouldn't

be destroyed or seized?

A. I don't think I have received any that came to me. I have no doubt that people have made representations. I know they did over in Welland some time around 1952 or '3, there were a great number of machines seized there, and there were representations made, and ofcourse there was suggestions go to Ottawa, because once the order is made there, there is nothing we can do about it. The application that was made to Ottawa was turned down, and in any event the machines were destroyed.

Q. Well, the Commissioner said to you that he supposed a warning would suffice to these people, but there was never any warning given to these people, was there, or instructions from your Department that they were contravening the Criminal Code?

A. Not ---

THE COMMISSIONER: That is not what I had in mind. I didn't mean to infer that they should go out to the crossroads and say to the little corner grocer, "You mustn't have this machine", I was just suggesting that the policy of the Crown Attorney - what is his name - Walsh - suggested it would amount to a warning to others if there was prosecution in the district.

A. That's right.

THE COMMISSIONER: You and Mr. MacKinnon and I know, in a country area news like this is big news and the local paper gets it and so forth, and it comes to their knowledge and in that way there would be a warning to them that the machines they had in their premises were illegal - that is all I had in mind.

MR. MacKINNON: So far as the Criminal Code in this connection, it is still the same today as it was when it was first amended?

A. There has been no change.

Q. No change.

MR. MacKINNON: That is all, thank you.

MR. LAWLOR: No questions.

MR. ROSE: No questions, thank you, sir.

MR. WILSON: No further questions.

THE COMMISSIONER: Thank you.

---The witness withdrew.

MR. WILSON: I would call Mr. Magone.

THE COMMISSIONER: How long are you going to be, I intended leaving early.

MR. WILSON: I wasn't going to ask him any questions, I said I would produce him for cross-examination.

MR. MacKINNON: Only one or two questions,

briefly.

THE COMMISSIONER: The only reason I asked is that I have a personal message to attend to, and I would like to get away a little earlier, today. All right,

MR. WILSON: I indicated that I would produce Mr. Magone for my friends.

CLIFFORD H. MAGONE, Recalled

EXAMINED BY MR. MACLEOD:

Q. Mr. Magone, only one or two areas --

A. Before I start, for a moment, may I start by saying that in relation to the pinball machines, because I noted that in the evidence given here previously, by some of the police officers, that they indicated that they were suspicious of the officials of the Attorney-General's Department in relation to the pinball machines and the instructions that they received from the Department in relation to them.

Now the whole question of the pinball machines, after the enactment of the new Criminal Code came into force in 1955, as arose out of a letter that I wrote to J.C. Martin.

THE COMMISSIONER: Who?

A. Martin, the author of Martin's Criminal Code, based on the new volume. He was one of the Commissioners on the revision of the Code. In relation to Section 170, and the change that was made from the old section, in the old Code, and at that time Mr. Martin told me that there was no change in it and the Commissioner never intended there should be. Now that was followed, of course,

by Mr. Garson at the House of Commons when he made a statement to the House that there was no - that he was instructed that there was no change in that section. And subsequent, the re-arrangement was by including the one word in the section that wasn't there before.

(Page 11826 follows)

That is the word "amusement" in the second part of the section.

Now, after that representations were made to Mr. Garson by the Attorney General, and it was thought that the section would either have been repealed ---

THE COMMISSIONER: Representations were made by the Attorney General to Garson, you mean?

A. Yes.

Q. Not Garson to the Attorney General?

A. By the Attorney General to Garson in Ottawa, and it was thought that either the section would have been repealed or that it would have been brought to the attention of Parliament, about the enactment which hadn't been done. One question was -- one question that was asked, I think, was, "What did Mr. Garson do?" My recollection is that Mr. Garson wrote to all the Attorney Generals across Canada and brought to their attention representations that had been made by Ontario, and that some of them protested against its repeal.

Now, I think that arose out of two decisions of the Supreme Court of Canada declaring provincial legislation in relation to stopping their machines ultra vires, and that legislation was aimed at the very type of

machine that was covered by the enactment by the new section of the Criminal Code just passed in error. Now, that is, as I understand the situation, nothing has been done to-day and the section is still as it was.

Now, the reason for the instruction to lay off these pinball machines that were not really gambling machines, even with the new wording in the Section 170 of the Code, the reason for the instruction to lay off, was never given to the Provincial Police. They were just given instructions, "Now, this is the policy", and not to prosecute these little corner grocery stores and to go out on a real campaign in relation to this type of machine. That is the situation.

Now, I am ready, Mr. MacKinnon.

MR. MacKINNON: Q. Could you have prosecuted the distributors of these machines?

A. I beg your pardon?

Q. Could you have prosecuted the distributors of these machines?

A. I presume so.

Q. Did you so do?

A. I don't know, I left the Department shortly afterwards. I was the Deputy from 1947 to 1957, and I left on the 1st of May.

Q. This is, so far as the distributors are concerned, a fairly big business, forgetting

this descriptive term of the small corner grocery store, so far as the distributors are concerned it is a fairly big business, isn't it?

A. Well, I suppose Coca-Cola is too, but I mean it's not -- I'm quite sure it isn't a big business in relation to what was illegal, an illegal machine prior to the -- prior to the new section going in the Criminal Code.

Q. Did you have any knowledge of the people -- the type of people who were doing the distribution of these particular machines?

A. No, I don't think I knew any of them.

Q. And November 24th, 1954, take your mind back that far?

A. Yes, I remember that.

Q. We have had evidence here from Chief Justice Porter that on the morning of that day he received a telephone call from Mr. Tom Kennedy and that he then requested you to find out what it was all about, and that you, in a half an hour or so, came back and reported that the matter was all over, and that the found-ins or whatever they were called had been released. Mr. Davis stated that he doesn't remember receiving a phone call from anybody about

this matter. Now, can you tell us, or do you have recollection as to what you did as a result of the directions given by you to the then Attorney General?

A. No, I cannot. I tried to recall in my mind something about it after I read what the Honourable Mr. Porter said, and it would be -- there would be maybe dozens or hundreds of routine matters that might be asked by the Attorney General to attend to. I haven't any recollection of telephoning Mr. Davis at all. In fact, Mr. MacKinnon, I -- before this evidence was given, and before the Commissioner started his sittings, I went out to see Mr. Davis to try and find out whether any person in the Department had phoned him, and he told me no, that they hadn't. He didn't recollect any, and I certainly had no recollection.

Q. I suppose you don't, of course, contradict the Honourable Mr. Porter's evidence that you did report back to him with some information?

A. Not for a moment.

Q. You must have obviously got that from somewhere?

A. I don't for the moment suggest that he is wrong in what he says. Undoubtedly I did what he says I did. The only

recollection I have, of course, of this particular case, is because it was an extraordinary proceeding -- the section of the Criminal Code is a most extraordinary section of the Criminal Code, as you know. It gives authority on mere suspicion, to the police officers with a warrant, to arrest every person that is found in an establishment and named in the warrant, and to bring them before a Justice of the Peace, and have them interrogated under oath, and it is only because of that that I recollect the case at all.

THE COMMISSIONER: There is something that everybody seems to have overlooked and it has struck me -- it strikes me that there is considerable significance to it. Once again, Mr. MacKinnon, would you listen to me instead of paying attention to Mr. Greer. You recall that Mr. Davis when he was giving evidence said that Mr. Gebirtig -- I think it was Gebirtig, but I am not sure -- was he the one ---

MR. MacKINNON: Yes ---

THE COMMISSIONER: Gebirtig was voluminous in his discussion with Davis with respect to these men having been detained from 3.00 or 4.00 o'clock in the morning till 9.00 o'clock without any opportunity to get bail, and that he, Gebirtig, presumably lectured Davis

about it. Now, if Gebirtig felt that way about it, it wouldn't be unreasonable to conclude that Gebirtig went about getting some message through to the Attorney General's Department about this procedure, and the present witness, add it is most unusual, and then it is suggested in sort of a lefthanded way that the late Mr. Kennedy was the one who telephoned the Attorney General's Department.

MR. MacKINNON: It is not lefthanded, we have evidence directing -- proper evidence that Kennedy did phone him.

THE COMMISSIONER: I didn't think he identified the man he called.

MR. MacKINNON: He did identify him.

THE COMMISSIONER: I see.

MR. MacKINNON: There is nothing left-handed about that.

THE COMMISSIONER: Then, all right, that information may have come from Kennedy from Gebirtig. Gebirtig is the man who is incensed about the whole thing.

MR. MacKINNON: Well, Gebirtig has denied that for what -- you can assess that evidence for what it's worth.

Q. In any event, I just want to follow on to what happened after ---

THE COMMISSIONER: But this witness doesn't have any recollection.

A. I have no recollection of phoning.

MR. MacKINNON: Q. You mentioned that the character of this legislation, this particular section, did Inspector Tomlinson, who was then the head of the Anti-Gambling Squad, did he not discuss the use of this section with you prior?

A. I would have thought so, Mr. MacKinnon, because it was the first time that I recollect that section having been used. I think it is a section that should have been used with the greatest restraint, and only on exceptional circumstances. Many attempts have been made, as you have heard, to get the evidence of these illegal gambling in these clubs, and he must have spoken to me or some one must have spoken to me about it. The section of course authorizes, as I said, that it is an extraordinary procedure, and it grants immunity to the person who gives evidence before the Justice of the Peace. They can't be prosecuted.

CC/5

THE COMMISSIONER: On the basis of admission?

A. Yes, on admission. I think the new section, the new Code even goes farther than that old one, my lord. The old section of the Criminal Code did provide that, in the opinion of the Justice of the

peace before whom evidence was taken, that they were giving truthful evidence, that they were excused from any prosecution arising out of the illegal gambling. I think the new section goes alittle further and is very much shorter than the old one.

MR. MacKINNON: Q. The only reason I raise that, Mr. Magone, is that I believe in one of the newspaper reports which Mr. Wilson has filed, it is stated apparently that in an interview with some one at the Attorney General's Department who advised the reporter who was writing the story that the Attorney General knew that this procedure was going to be followed.

A. I would have thought so.

MR. MacKINNON: All right, thank you.

THE COMMISSIONER: Questions?

MR. LAWLOR: No questions, my lord.

MR. HOEE: No questions, thank you, sir.

THE COMMISSIONER: That's all, Mr. Magone.

---The witness withdraws.

THE COMMISSIONER: We will adjourn until to-morrow morning at 10.00 o'clock.

---Whereupon the hearing adjourned at 4.25 p.m. until 10.00 a.m., Friday, October 5, 1962.

FILE COPY

VOLUME NO. 59

ROYAL COMMISSION

ON CRIME

IN ONTARIO

DAILY TRANSCRIPT
OF PROCEEDINGS

Date Fri., Oct. 6, 1962,

pp 11,834 -- 12,031

Supreme Court Reporters
145 Yonge St.
Toronto

VOLUME 59

INDEX OF WITNESSES

INDEX OF EXHIBITS

(Continued)

/1/JT

FRIDAY, OCTOBER 5TH, 1962

---On resuming at 10:15 o'clock a.m.

MR. WILSON: I am calling the Attorney-General this morning.

A. KELSO ROBERTS, sworn

EXAMINED BY MR. WILSON:

Q. You have been in public life in this Province for a number of years?

A. Yes, Mr. Wilson. I was first elected a Member of the Legislative Assembly of the Province of Ontario in 1943 as the Progressive Conservative for the riding of St.Patrick. I entered public life as a candidate in the 1937 election and then on my first try, defeated. As a matter of fact, sir -- it may interest you, Mr. Commissioner - tomorrow, the 6th of October, will be a twenty-five year anniversary of this first effort. Perhaps without pardonable pride I can say never since that time have I been defeated at the polls. I was re-elected in 1945. I did not contest the 1948 election but in 1951 I was re-elected in the same riding and I held my seat in the Legislature through two further elections.

MR. ERWIN: Before he goes on ---

THE WITNESS: 1955 and 1959.

MR. ERWIN: Are we concerned with Mr. Roberts' election and re-elections? I thought you were rather against us having political speeches.

THE COMMISSIONER: I am not particularly concerned.

THE WITNESS: Well, it is pretty self-evident to everyone in the room ---

THE COMMISSIONER: Just a moment, please. I suppose he has to warm up to his subject a bit.

MR. ERWIN: I thought we weren't going to discuss political careers.

MR. MacKINNON: Mr. Commissioner --- Perhaps something a little more relevant -- If Mr. Wilson and Mr. Roberts are going to read from a prepared brief, I wonder if I might have a copy of it?

THE WITNESS: Nobody has a prepared brief. I have rather copious notes.

MR. WILSON: I haven't got a copy of what the witness says.

MR. MacKINNON: You just have a copy of the questions?

MR. WILSON: No, I have a copy of certain matters I want to ask the witness about.

MR. MacKINNON: Obviously the witness is

prepared to answer those questions.

THE WITNESS: I am quite prepared to answer your questions, too, when you come along. Don't worry about that.

MR. MacKINNON: I would like a copy of this. It will shorten my note-taking.

THE COMMISSIONER: A copy of what?

MR. MacKINNON: What the witness is reading from.

THE WITNESS: I am reading from my notes, Mr. Commissioner, that I prepared.

MR. MacKINNON: Always so well prepared to answer certain questions he knows are going to be asked.

MR. WILSON: Now that my friend has made a political speech, maybe we can get on with it.

THE COMMISSIONER: All right, gentlemen. Let us quieten down just a moment. He has got some notes which is perfectly in order.

MR. WILSON: I have also some notes, too, Mr. Commissioner.

THE COMMISSIONER: That is all right.

THE WITNESS: Mr. Commissioner, I think perhaps it would be appropriate also to say I was honoured by former Premier Frost in August 6th, 1955 -- This is very relevant -- by being invited tojoin his Government as a member of the Executive Council and as Attorney-

General of the Province of Ontario.

THE COMMISSIONER: Q. Then you became Attorney-General?

A. Then I became Attorney-General.

Q. When?

A. I was sworn in on the 17th of August, 1955. This, of course, involved for me a very important decision with respect to private practice and after talking with my associates at the time I resigned from private practice, left the firm, have had no connections with it since as a practising attorney and I actually did resign at that time from all directives that I held and have given since that time full and undivided attention to the office of the Attorney-General of the Province. And, as a matter of fact, my experience hasbeen that that is essential.

I wish to state that I have been true to my oaths of office. I have, to the best of my ability, whatever it may be, given undividedly of my time and efforts to the carrying out of the duties and responsibilities of the office of Attorney-General, of this great Province and for the improving, as I hope, administration of justice and law enforcement in this Province. I can say without hesitation, sir, that I have never made a decision which in my view was in any

way contrary to those objectives.

MR. WILSON: Q. Now, you are quite familiar with the speech made by the Leader of the Opposition, Mr. Wintermeyer, on November 29th, 1961? Exhibit 3.

A. Yes, the terms of reference which I know have been repeated here many times but I would like to mention No.2 with which I am particularly concerned, and my Department is particularly concerned, and I quote from the reference:

"Any improper relationships, as
"alleged by the Leader of the
"Opposition in his speech of
"November 29th,1961, between
"senior officials of the legal
"staff of the Department of the
"Attorney-General and any person
"or persons, and more particularly
"relating to (a) the termination
"of investigations, (b) the suppression
"of evidence, and (c) the payment
"of money."

In this speech of denigration of many people, by the Leader of the Opposition, I am mentioned in a number of places and in certain terms, which I will refer to and which may constitute charges against me as follows: "(1) Under termination of investigation" above

at page 103 of Hansard of the 29th of November ---

MR. WILSON: Q. Just go a little slower so we will get these references.

A. Page 103 of Hansard of November, the speech of November 29th, 1961. After reciting certain information gleaned from the examination of Constable Scott's diary, which must have been shown to him, of course, by somebody, the Leader of the Opposition said and I quote ---

THE COMMISSIONER: Q. Mr.Roberts, it might be helpful if you would indicate to me the heading. The first was "Termination of investigations"?

A. Yes, sir.

Q. Then we can come back and take it seriatim.

A. Yes, sir. I think I am doing it that way in the way I have it prepared here. I am taking these three and trying to carry through on them, sir.

Q. If you will just give me the headings of the three, then go back.

A. The first one I refer to here is termination of investigations, suppression of evidence. Now those two, as I point out, are found in a language that eventually -- to use the expression "libel", that isn't the right word -- but actually they are devolved in

the paragraph. Two charges are put together and rolled up. They are rolled up, is what I am thinking of.

Q. I have read the speech many, many times. The third?

A. The third is the payment of money and then there are two others I'd like to mention here as I go along, sir.

(Page 11850 follows)

B/ADO'N/1

THE COMMISSIONER: All right.

THE WITNESS: And I would like to quote from the words of the Leader of the Opposition at page 103.

THE COMMISSIONER: Q. Are we back on No. 1, now?

A. Yes, sir, the stoppage.

"That being the case,and recognizing
"that the police themselves would
"want the investigation to continue, . . . " --

and these are the words of the Leader of the Opposition --

" . . . recognizing that the police
"themselves would want the inves-
"tigation to continue, what
"conclusion is possible but that
"it was stopped on the orders
"of the hon. Attorney-General?"

And that is the end of the quote I wish to make at the moment, and at that point I said in the Legislature:

"I would just like to say that that
"is an absolute and completely false
"conclusion."

That also appears in Hansard.

And then under the suppression of evidence, the Leader of the Opposition devoted a considerable number of words commencing at the middle of the first column, page 102,with

THE PROSECUTOR: All right.

THE WITNESS: And I would like to quote from the words of the honorable Supreme Court as page 163.

THE COMMISSIONER: Q. Are we been on Sec. 1, part

A. Yes, sir, the purpose.

"Upon hearing the case, and recognizing

"that the police investigator would

"make the investigation to conclusion, . . ."

and then and the words of the leader of the conclusion --

" . . . recognizing that the police

"investigator would make the investigation

"conclusion to conclusion, when

"conclusion is possible the other

"It was accepted on its merits

"or not then, accepted-accepted."

and that is the end of the quote I wish to make on the record, and at that point I said to the Judge-Commissioner:

"I would just like to say that this

"is an absurdity and unnecessary delay

"proceedings."

That was agreed to unanimously.

And when under the circumstances of a case, the lawyer or the Commissioner decides a more expeditious manner of moving concerning the results of the first witness, high [illegible]

the words:

"Now, Mr. Speaker . . ."

Your lordship has a copy. I don't think it is necessary for me to read all this.

Q. Is that on the left hand column?

A. That is on the left hand column, commencing with the words, "Now, Mr. Speaker".

Q. Yes, I see that.

A. And ending on page 103 with, "on the orders of the hon. Attorney-General?"

Sir, I can either read that or ask these words be incorporated into the record and taken as read from Hansard.

Q. That is all right.

A. I would like to have those words from the beginning to the end in that. Shall I read them?

Q. As you wish.

A. Page 102:

"Now, Mr. Speaker, I have said "there has been evidence given in "court on all these matters I have "listed. The hon. Attorney-General "and others may say it is hearsay "evidence. I agree with him, and I "will deal with that point in a "moment. Before I do, however, "I wish to give the House some "information which has not been given

"in court.

"As most hon. members may know, "most of the matters I have just "enumerated result from an undercover "investigation by Constable George "Scott of the anti-gambling squad of "the Ontario Provincial Police, who "was instructed by his superiors to "accept a proposition from Robert J. "Wright that he supply warnings "about raids and other information "on the activities of the anti- "gambling squad to certain gamblers, "who were later identified as "Vincent Feeley and Joseph "McDermott.

"Constable Scott, as is cus- "tomary, kept an official diary of "that undercover investigation and "also supplied progress reports, "directly to Assistant Commissioner "Kennedy and Commissioner W.H. Clark "who we may assume keptthe hon. "Attorney-General informed. Con- "stable Scott's diary was not "submitted in evidence at the trial "of Wright, Feeley and McDermott, "but because it formed the basis "of the Crown's case, copies were

"supplied to the three defense counsel.

"Mr. Speaker, most of the entries in "the diary came out in court, but "some did not. I shall read the "relevant items which were left out, "omitting the names of the individuals "concerned.

"An entry on February 29, 1960, "reported that Wright told Scott and "I quote:

"'Said the fix was in at Queen's "Park, re cancellation of the "Vets Club charter.'

"An entry concerning a phone "call on May 14, 1960, reported that "McDermott told Scott:

"'May have inspector bribed at "St. Kitts,' and 'Intimated -- "(and here the name of a senior "official of the department of "the hon. Attorney-General) -- "on payroll. Said to ask -- "(and again the name of the "official) -- something and I'll "tell you what he has said the "next day.'

"The entry for this date further "reported when McDermott 'Talked about "the branch being stopped from using

"hammers at Cookseville and being told
"to time the door.' Another entry
"dated May 16, 1960, said:

"'Bartlett received money from
"McDermott for telling when
"warrants were signed. Received
"$2,000 once at a party with -- '

"And then a member of a previous govern-
"ment is named.

"An entry concerning a meeting
"of Scott, Wright and Lawrence on
"May 17, 1961, reported that Lawrence
"said senior official of the hon.
"Attorney-General's department was
"receiving $800 a month from the
"gamblers.

"Mr. Speaker, why were these
"entries in Constable Scott's diary
"not introduced in evidence? No
"doubt the hon. Attorney-General may
"say it was all hearsay evidence,
"but not the sort of thing to
"be read in court without the support
"of other evidence. Why then, Mr.
"Speaker, were many of the matters
"which I have given to this House
"read into evidence? Most of them,
"the references to Lawrence, to
"Lamorie, to Cronin, to Bartlett,

"and so on, were on the same legal footing
"as the references which were not dis-
"closed. The references to Stringer
"and to Wright were substantiated by
"other evidence but the remainder were
"not. Why then were some put in and
"others not?

"I suggest the answer is very
"clear. Constable Scott's investigation
"lasted nearly four months, from
"February to May of 1960, his purpose
"was to ingratiate himself with the
"gamblers, gain their confidence and
"to eventually deal with them on a
"face-to-face basis, so that
"incontrovertible evidence could be
"secured. The provincial police no
"doubt set great store by this
"investigation. Here were big-time
"gamblers who had evaded conviction
"for years; finally the police had
"succeeded in planting an undercover
"agent in their midst.

"The information Constable
"Scott gathered during those four
"months was undoubtedly valuable but
"obviously the police felt he had
"by no means exhausted all the
"possibilities especially the

"possibility of face-to-face contact
"with the gamblers. Mr. Speaker,
"there has been absolutely no
"suggestion that Constable Scott's
"true purpose was discovered by the
"gamblers. That being the case, and
"recognizing that the police them-
"selves would want the investigation
"to continue, what conclusion is
"possible but that it was stopped
"on the orders of the hon. Attorney-
"General? The reference to the
"member of the previous government --- "
And then I have already quoted what I said at
that time.

Now, I read that into the record. The
charge. And these paragraphs seem to contain
what the Leader of the Opposition indicates
B/2 are his reasons for alleging both stoppage
of investigation and suppression of evidence.
I interpret his allegation of suppression
as based on the fact that certain slanderous
and, as I believe, untrue statements
contained in the Scott diary referring to a
senior official of the Department of the
Attorney-General, were not introduced in
evidence in the case of Regina v. Wright,
Feeley and McDermott on a conspiracy charge
heard in May and June of 1961 before the

Honourable Mr. Justice Spence and a jury.

This trial, as well as the preliminary hearing leading up to it, was conducted by special Crown Prosecutor Gordon Ford, Q.C., who was in no way restricted or interfered with in his duties and responsibilities in the proper conduct and presentation of the case for the Crown.

You have had his evidence here already, sir, and I need not refer to it or say more than that.

One would think in reading from the speech of the Leader of the Opposition that he knew more about what would be relevant evidence than the trial Judge, himself. In any event, it is obvious that the test from the Crown's point of view in the presentation of evidence would be whether any of these items I have just read from Wintermeyer's speech would add anything to the Crown's case. If not, then they ought not to have been in the evidence. I am informed that the admissibility of certain statements in the Scott diary were argued before the presiding Judge, the Honourable Mr. Justice Spence, and ruled upon by him.

The defence cross-examination at the time would also be a means for introducing relevant testimony.

Any suggestion of suppression of evidence in this connection is, in my view, wholly and completely unsupported by any facts whatever.

Now, I turn to the other part of that charge. The Leader of the Opposition also refers to three Ontario charters.

Q. What charge?

A. Not that charge. The further charge.

Q. What page are you reading from?

MR. WILSON: Q. Which of the charges, I think the Commissioner wants to know, are you going to direct yourself to now?

A. For the moment, sir, I was going to leave the question, although I will come back to it and deal with it in some more detail, but I think in order to get the history, I have to follow a certain line and I think, when I finish, you will appreciate ---

THE COMMISSIONER: Q. Are you referring to another part of the stoppage now, or to another charge?

A. I was going to refer to the charters. Then again, later, in more detail.

MR. WILSON: Q. We have quite a bit of evidence on charters in July, 1957. Is that what you mean?

A. Yes. I want to mention that . I want to, in an introductory way, get these

charges focused properly.

The Leader of the Opposition also refers to three charters to Ontario clubs granted in July, 1957, and made a number of statements in connection therewith, and with a press release about them, which I issued on July 18th, 1957, which may have some elements of charges against me by him.

I mention that because that is another item I am treating in the same category.

I might say, when I first took office, the former Commissioner assigned the present Commissioner to be the driving force in the field of traffic work, which was greatly stepped up in the autumn of 1955 and 1956.

MR. BREWIN: May I say a word?

THE WITNESS: I am just referring tothe present Commissioner. I came to know the present Commissioner very well even before he was appointed Commissioner.

THE COMMISSIONER: That is all right.

MR. BREWIN: Mr. Commissioner,the way this matter is conducted is a matter for you and my friend, but surely the evidence of this witness would be more valuable if, instead of his reading from a prepared memorandum, my friend question him about relevant matters in the usual way. I have had some experience and I don't recall this

method of procedure whereby a witness comes in and reads a long prepared statement that he has apparently written down. I think we would get the facts from him if my friend questioned him about the relevant matters in his own way, in an orderly manner. This procedure, it seems to me, sir, is not conducive to getting the facts.

THE COMMISSIONER: What the witness is doing, as I understand, he is taking this and dividing it into three chapters. One, the termination of investigation. Two, suppression of evidence.

THE WITNESS: And, three, the charters, payment of money.

THE COMMISSIONER: Payment of money.

THE WITNESS: And the charters.

THE COMMISSIONER: Now he is going to take part of the speech which he says reflects adversely on him, and he is going to give his part of the story. Now, is there anything the matter with that?

MR. BREWIN: Yes, sir, with respect.

THE COMMISSIONER: Why?

MR. BREWIN: There is something the matter with it. It is perfectly normal for a witness to refresh his mind by referring to some memorandum or something he made at the time.

THE COMMISSIONER: You have been in practice long enough to know this. You have been at trials where a witness stands up in the witness box and is asked two or three preliminary questions and then he is, as it were, given his head. "Tell the judge and the jury your side of the story. What is it?" And then he goes on and tells the story -- just a minute -- he goes on and relates in his own way his side of the story. Then questions are put to him with relation to different parts of what he said. I have no doubt that is exactly what will happen here.

MR. BREWIN: Yes, but, sir, I don't think, from my experience, it is usual to permit a witness to read from a prepared statement.

THE COMMISSIONER: The witness if often told, "You can refer to your notes if you desire to do so." Particularly police constables. I see no objection to this, Mr. Brewin.

THE WITNESS: I will be referring to the quotes.

MR. BREWIN: It is from a prepared text, to which I am objecting.

THE COMMISSIONER: I suppose alot of preparation went into the speech of Mr.

Wintermeyer. Four months went into it.

MR. WILSON: Six months.

THE COMMISSIONER: Surely a witness who is attacked is able to give some time to it and analyze it and put it down so he will have something to guide him in giving his evidence.

MR. BREWIN: I am not objecting to the witness giving his full side of the story. I have no doubt he will be given every opportunity to do so. What I am objecting to is contrary to the usual rule, and the best way, I suggest, is giving evidence instead of giving his evidence of what happened, or even refreshing his memory, he is just giving us a sort of prepared document or speech and I have not been used to hearing evidence given in that way.

THE COMMISSIONER: You are hearing it now and I am not going to stop it, Mr. Brewin.

MR. BREWIN: Very well.

B/3 THE WITNESS: I want to repeat, sir, it goes without saying that I have great confidence in Commissioner Clark.

The then Commissioner, E.V. McNeill, presented his annual report for the year 1955, which was tabled in the Legislature about the 1st of March, 1956. It is 36-D

of the Commissioner's exhibits, I believe. I have a photostatic copy of this part of it here. I would like to, for the record, reproduce at this time, on page 25 of this report, this statement of Commissioner McNeill:

"The three major gaming houses --
"one in Toronto Township, County of
"Peel, one in Bertie Township, County
"of Welland, and one in Sandwich
"South Township, County of Essex,
"are still in operation and, as has
"been noted in the past, they
"operate under the guise as a
"federal charter, using parking
"attendants as look-outs,and heavily
"reinforced doors and barricaded
"windows to obstruct entry. Attempts
"have been made in the past to gain
"entry to these premises and every
"attempt will be made in the future
"to bring out the true facts
"surrounding these so-called
"legitimate clubs."

Now,that appears on page 25.

THE COMMISSIONER: What year is that?

THE WITNESS: For the report, for the year 1955, which came out, I think it was, early in March, 1956.

THE COMMISSIONER: And looking at page what,

please?

MR. WILSON: 25.

THE COMMISSIONER: Page 25.

THE WITNESS: Permit me, sir, to say here and now that within four years from the delivery of that report, all three major gaming houses, as Commissioner McNeill termed them, were put out of business by the combined efforts of those charged with law enforcement and administration of justice, and with the co-operation of the Provincial Secretary's Department. That, in my opinion, constituted a job well done, and I wish to emphasize it now as I unfold my story.

THE COMMISSIONER: Q. Just a minute. We are all under quite a strain here. You just tell us the facts in a proper way without glorifying the record.

A. I would be quite happy with the facts, Mr. Commissioner. Furthermore, the bulk of the material used by the Leader of the Opposition in his speech of November 29th, 1961, is material collected for or related to these cases; much of it from confidential files and reports and relating to Court cases now solved by the closing down of the establishments, and in two out of three clubs referred to, by trials and convictions of the operators. The principals about whom

so much has been said here were put out of business some time ago. I hope the law enforcement branches will be given some credit for that.

I produce a memorandum to Mr. W.B. Common, Q.C., from Commissioner Clark. I don't think this has been presented as an exhibit.

MR. WILSON: Q. From Clark to Common?

A. I would stress the date, April 18th, 1961, which would be in a period between the -- before the trial, the first trial of the three people I mentioned earlier.

Q. Is this a memo from whom?

A. A memorandum to Mr. Common from Commissioner Clark, and it is dated April 18th, 1961.

THE COMMISSIONER: Is it in as an exhibit, Mr. Wilson?

MR. WILSON: I don't think so, Mr. Commissioner.

THE WITNESS: I would then ask it be marked as an exhibit.

THE COMMISSIONER: Let me have a look at it for a moment. (Produced)

---EXHIBIT NO. 278: Memo from Commissioner Clark to Mr. Common, dated 18th April, 1961.

THE COMMISSIONER: What was the date Wright was arrested?

MR. WILSON: May 28th, 1960.

Q. I think this was before the actual trial of the three. I think that was in May or June of 1961.

A. Yes, the end of May and early June, 1961, was the first trial.

Q. Now, this report deals with organized gambling in the Province of Ontario, and in particular with four clubs. The Tisdale Club in Peterborough. The old Castle Country Club, Essex County. The Lorelei Club in the Township of Bertie. And the Alpha Country Club in the Township of Toronto. And, of course, the names by which these clubs were known from time to time during their career.

Now, is there any particular part of this?

A. I think it is a very important memorandum from beginning to end.

Q. Would you like to read it?

A. I thought you were going to relieve me of that.

Q. Would you like me to read it?

A. I would appreciate it if you would.

MR. WILSON: I would be glad to.

"Dated April 18th, 1962.

"Mr. W.B. Common, Q.C.,

"Deputy Attorney-General.

"Re Organized Gambling - Province of Ontario.

"In compliance with your telephone "request I have the honour to submit "this brief memorandum which deals with "four clubs which operated at different "locations in the province since 1953 "until the arrest of the Provincial "Constable R.J. Wright, in May, 1960.

"The Alpha Country Club, better "known as the Centre Road Veterans "Association Club in the Township of "Toronto . . . "

THE COMMISSIONER: Just a moment. The Reporter does not need to copy down your words. It is in as an exhibit.

MR. WILSON: Yes.

---(Mr. Wilson reads Exhibit 276.)

And that is the memorandum of Mr. Clark.

THE WITNESS: May I keep this copy?

MR. WILSON: Q. We have to file one. Have you not got another copy?

A. I have not at the moment, but I can get one.

MR. WILSON: We want the signed one put in. There is a copy. (Produced)

THE COMMISSIONER: You will have copies made of that?

MR. WILSON: We have.

THE WITNESS: Reference was made on page 4

to the Angelo Lafrade case, and I would like to refer to that. It was a charge of gaming against Lafrade relating to the premises of the Alpha Club, which was incorporated, according to the Court of Appeal judgment, in 1924. And I am going to, my lord, submit a copy of the Court of Appeal's judgment, if I may, and ask that it be marked as an exhibit.

MR. WILSON: Q. Was that a reported decision?

A. Yes.

MR. WILSON: Maybe if you could give us the citation, it would help.

THE COMMISSIONER: 105, Canadian Criminal Cases, page 5.

THE WITNESS: I would refer to ---

THE COMMISSIONER: Just a moment.

(Page 11875 follows)

C/1/SW

THE COMMISSIONER: All right.

A. I would particularly want to refer to this, Mr. Commissioner, because it does illustrate, I think, clearly, some of the problems with which the enforcement people have to contend. The facts, as set out in the judgment, show that in 1924, and I think there was even - I think it was even earlier than that, but in 1924 by Dominion charter - I think the earlier operation, earlier, but in any event they fix the date as 1924 by the Dominion charter as a non-profit making and recreational club with activities centering in and about the City of Peterborough, and in 1948 by a branch of the club in premises in Peel County in, I believe, the Centre Road location, of which much has been heard here.

On March the 13th, 1952, a police raid took place when the police broke down the front door, entering the premises under a search warrant. These are also shown in the judgment, and I quote from the judgment of the Ontario Court of Appeal, the Court consisting of Hope, Aylesworth and F.G. MacKay, J.J.A., delivered on the 4th of February, 1953, on the facts, and I am doing this because I think it is important that some of the difficulties in these cases be shown on the record of these proceedings. I quote:

" The police proceeded
"immediately upstairs and found
"some twenty or more persons
"grouped around the billiard
"table upon which, according to
"the evidence, they had been playing
"dice. The police also found
"the following objects, namely: ---"

THE COMMISSIONER: How much are you going to read?

A. Well, sir, I did want to point these things.

Q. I was just asking how much you were going to read.

A. I am going to read it down to "registered club guests", for about half a page.

Q. Well, we are paying so much for the reporters, and all of this seems to be already in as an exhibit.

A. Well, sir, I want to point out that: "Dice, two blank squares of paper lying on one end of the billiard table, certain playing cards lying on the floor, a riding crop lying on top of the billiard - cue - rack, two 1-cent pieces lying on the billiard table, two other 1-cent pieces together with a crumbled piece of paper in one of the side pockets of the billiard table, another blank of paper on the floor or in a wastepaper

basket and a cigar box at one end of the billiard table with nothing in it but some pieces of billiard chalk."

"They also observed one Freeley -- " I don't know whether that is a free translation or not.

MR. WILSON: It must be a free translation.

A. "They also observed one "Freeley standing near the cigar- "box with some $250 in cash in his "hand. Freeley was charged "jointly with the appellant but "the charge as against him was dismissed "by the learned Magistrate.

" Evidence was also called to "establish that the police had "kept the premises under surveillance "for three nights previous to the "night of the raid and that upon "each of these nights several "automobiles had been observed driving "to the premises and later the same "night or early in the following "morning driving away from the "premises, the number of occupants "of such vehicles apparently varying "from some 24 to 40.

" It was also established in "evidence that on the night of the

"raid all those found upon the
"premises were either members of
"the Club, applicants for member-
"ship, or registered Club guests."

The headnote to the case, my lord, says ---

THE COMMISSIONER: Where?

A. At page 5, Volume 105, Canadian Criminal Cases,

"If positive and unshaken sworn
"testimony adduced by the defence
"raises a reasonable doubt of the
"guilt of the accused, the Magistrate
"ought not to reject such evidence
"without stating his reason for
"so doing, particularly where the
"case for the Crown rests entirely
"upon a statutory presumption of
"guilt and is founded upon
"equivocal circumstantial evidence."

It is thus seen that gambling in such circumstances is not necessarily illegal.

THE COMMISSIONER: All right, put it in as Exhibit 279.

---EXHIBIT NO. 279: Court of Appeal decision, in Regina vs. Lafrede.

THE WITNESS: As a matter of fact, it has been given in evidence here, and I am fancy, repeatedly, that operators of these clubs were

on occasion very vocal through their solicitors on this point and certainly this decision gave some credence to that evidence.

Professor Desmond Morton, of the Faculty of the Osgoode Hall Law School, which now of course has the status of a university, has made, in my opinion, quite a contribution to the whole complex subject of gambling in a report which was tabled in the Legislature last autumn.

I would now like to deliver a copy of this report with an appendices for identiciation, and for the use of the Commissioner --

THE COMMISSIONER: During this hearing, we have had copies of that.

MR. WILSON: We have copies, Mr. Commissioner, but there is some very helpful information in it. But it hasn't been filed, sir, according to my notes.

THE COMMISSION: As an exhibit?

MR. WILSON: No.

THE WITNESS: I would like to ask that they be filed, sir. I don't think there will be any harm in filing them.

THE COMMISSIONER: Exhibit - there are two volumes there. One is a grey one and one is a yellow one.

A. One is the appendices.

THE COMMISSIONER: Oh, I see, 280.

---EXHIBIT NO. 220: Report of Professor Desmond Morton.

THE COMMISSIONER: It is a report of what?

A. It is the study of ---

MR. WILSON: It is a study of gambling in the Province.

A. Yes. I would just ask permission to file the release that was made on July 5th, 1961.

Q. Wait a moment until Mr. Commissioner gets a note of the last exhibit.

THE COMMISSIONER: All right.

A. In connection with the others, sir, I would like to file for identification a press release of July 5th, 1961 which has to do with setting up of the committee made to Mr. Morton and two others, out of which came these reports that I have just filed.

THE COMMISSIONER: Well, why not make that part of Exhibit 220?

A. It is a press release of the 5th of June, 1961, issued by myself, and part of an exhibit. I refer, sir, to the movement as to the report of the Commissioner then, Commissioner McNeil in the year 1957 in the annual report, and it caused some publicity in the issue of March 1st, 1956, of the Globe and Mail in Toronto, it was a news item.

THE COMMISSIONER: Just a moment, a news item?

A. No, sir, I am referring to the annual report of 1955. I quoted ---

THE COMMISSIONER: We have it.

A. Yes, but I am referring to the news item arising out of the report.

THE COMMISSIONER: Let me see it. We don't want to get the record all cluttered up with news items.

A. Well, it is historical --- it arose out of a question which was asked in the House of Commons which caused ---

c/2 MR. WILSON: Now-- As I understand it, that was the result of a question asked in the House of Commons which referred to the newspaper article. You then had certain correspondence with the then Commissioner of Justice, Mr. Gardent

A. Yes.

Q. Now just --

A. That's right, that is what I am producing - the news item - because that is what caused the question to be asked. The question was asked on the 1st of March, 1956 in the House of Commons, and it was as follows:

"Of the Minister of Justice:

"I should like to direct a

"question to the Minister of

"Justice in view of the report

"on the front page of this morning's

"Globe and Mail to the effect that
"certain illegal gambling activities
"in Ontario are protected by
"Federal charters. Has the Minister
"any comment to make?"

THE COMMISSIONER: Who asked the question?

A. Well, I think - it didn't appear, but from correspondence and a check that was made, I think that it was asked by Mr. Wallace Nesbitt, M.P. for Oxford at that time.

". . .illegal gambing activities
"in Ontario are protected by
"Federal charters. Has the Minister
"any comment to make?"

After reciting the Globe and Mail article and the above question, Mr. Garson, by letter dated March 1st,1956, asked me to inform him of the basis of Commissioner McNeil's contention -- and that is already an exhibit, Exhibit 65, the letter of March 1st, 1956, from Mr. Garson to myself. And he asked about that contention, and he uses quotes:

"That known gambling houses are
"operating despite every attempt
"to establish convictions because
"Federal charters protect them."

Sergeant Anderson, in charge of the anti-gambling branch of the Ontario Provincial Police, March 5th, 1956, supplied the Commissioner

of Police with a memorandum under the following heading: "Re Clubs Operating in the Province of Ontario under Federal charters - Toronto Township, Bertie Township and the Township of Sandwich -South."

This memorandum illustrates the problems, and in order for this record to be in sequence, so far as my own testimony is concerned, that should be read, Mr. Wilson, and possibly you would relieve me again as I would appreciate it.

MR. WILSON; I have a copy - part of 66. This document was part of Exhibit 66, dated March 5th, 1956, memorandum to Mr.E.V. McNeil, Commissioner of Police, Ontario. Re "Clubs Operating in the Province of Ontario under Federal Charters - Toronto Township, Bertie Township, and the Township of Sandwich-South."

"Once a club has been granted either "Federal or Provincial, it has "been my experience in dealing "with the enforcement of the law "in relation to the operation of "'a common gaming house' thatthose "individuals acting as the executive "by of an a incorporated bona fide "social club under the provisions "of Section 168(2) of the Criminal "Code are granted certain exceptions. " A place is not 'a common gaming

"house' within the meaning of
"subparagraph (i) or clause (b) -- "
I think that should be "of" but it says
"or" -- clause (b) -- it says:
". . . or clause (b) or (c) of
"subparagraph (ii) of paragraph
"'p' of subsection 1,
"(a) - while it is occupied ~~as~~
"and used by an incorporated bona
"fide social club or ~~branch~~ branch thereof
"and including subparagraphs 1 and
"2 relating to bets on or proceeds
"from games played therein is not
"directly or indirectly paid to
"the keeper thereof, and no fee
"in excess of 10 cents an hour or
"50 cents a day is charged to the
"person for the right or privilege
"of participating in the games
"played therein.
" Section 168(1)(f) defines
"'game' means a game of chance or
mixed chance
~~xxxxxxxxx~~ or skill.
" Section 168(1)(g) defines
"'gaming equipment' means anything
"that is or may be used for the
"purpose of playing games or betting.
" Section 168(2)(a)(i) and (ii)
"of the Criminal Code dealing with

mixed chemos

"an incorporated bona fide social
"club or branch thereof, in actual
"law-enforcement practice today
"makes void the presumption, Section
"169 of the Criminal Code you will
"note that the clause (e) of sub-
"paragraph (ii) of Section 168(1)(d)
"makes provision for the privilege
"of playing and participating in
"a game or using games equipment,
"whereas the Presumptions section,
"169(b) evidence that a place was
"found to be equipped with gaming
"equipment or any device for con-
"cealing, removing, or destroying
"gaming equipment is prima facie
"evidence that the place is 'a common
"gaming house'."

MR. WILSON: I don't know what the next word is - or "common betting house as the case may be."

Then:

"Section 69(e), evidence that gaming
"equipment was found in a place
"entered under a warrant issued
"pursuant tothis part, or on or
"about the person of anyone found
"therein is prima facie evidence
"that the place is, 'a common gaming

"house' and that persons found
"therein were playing games,
"whether or not any persons acting
"under the warrant observed any
"persons playing games therein.
"Section 169(a) - Evidence that
"a peace officer was authorized
"to enter a place was wilfully
"prevented from entering or was
"wilfully obstructed or delayed
"in entering, is prima facie
"evidence that the place is a
"disorderly house.
" From the observations and
"experience in connection with the
"operation of 'a common gaming house'
"in relation to places operating
"under the provisions of an in-
"corporated bona fide social club,
"where a gambling syndicate operates
"a bank - crap game - the police
"under the existing legislation are
"powerless to obtain the necessary
"evidence, as result of searching in
"the premises under the authority of
"a Warrant to Search, Section 171(1)
"of the Criminal Code.
" A bank crap game can be
"operated by means of gaming equipment,

"which can be used for a lawful
"purpose, and in order to obtain
"the necessary evidence to warrant
"conviction, nothing short of having
"at least two officers under cover
"playing in the game is necessary,
"which is almost nigh impossible.
" All three of the marginally-
"noted premises in the Province of
"Ontario are equipped - flood-
"lighting - lookouts used as parking
"attendants for the purpose of
"scrutinizing the occupants of the
"motor vehicles, before being
"admitted into the premises.
" All three of these premises
"formerly were in possession of
"charters issued by the Department
"of the Provincial Secretary,
"Province of Ontario. Two of
"these clubs, as a result of adverse
"publicity from citizens and the
"press, discontinued operating under
"their present charter. The
"charter issued under Hamilton
"Business Men's Bridge and Chess Club
"was cancelled by the Department of
"the Provincial Secretary for cause.
" These three clubs, after

"obtaining the present charters from
"the Department of the Secretary of
"State of Canada, continued operating
"as they are at the present time.
" Respectfully submitted,
" (Signed) Sergeant in charge,
Sergeant Anderson of the
Anti-Gambling Squad of
the Ontario Provincial
Police."

C/3

A. My lord, I would just point out in answer that Sergeant Anderson was advised on March 5th, 1956 with respect to the problem of the possibility of obtaining certain types of evidence. He sets out there in that memorandum in connection with that type of -- Mr. McNeil in turn passed this information on in a memorandum to myself and I want to repeat, being repetitious, but I also think this is part of the same exhibit. The letter or memorandum from Commissioner McNeil dated the 5th of March, 1956 to myself and I would read the last paragraph of it:

" A charter issued by the
"Federal authorities does not . . .
". . . gaming house."

Now, that was from Commissioner McNeil on March 5th, 1956.

On the same day, the next day, on March 6th, 1956, I wrote the Honourable Mr. Garson, a copy of which letter is already an exhibit,

I think Exhibit 67, and a copy of my letter to Mr. Garson I would like to have that on the record. Perhaps, again, Mr. Wilson, you would read it.

MR. WILSON: Yes.

" March 6th, 1956.

"Dear Mr. Garson:

" I have your letter of March "1st referring to press report on "a section of the annual report "tabled in the Ontario Legislative "Assembly recently and made by "Ontario Provincial Police Commissioner "K.V. McNeil.

" I understand that there are "at least three clubs operating in "the Province of Ontario under Federal "charter.

" The practice in Ontario is "for the Provincial Secretary to "request the Ontario Provincial Police "to make an investigation as to the "character and reputation of the "directors of the proposed club. The "charter, if issued, is to and for "a specific location and contains a "clause which prevents the club, or "person in possession of the charter, "from barricading the premises in "such a manner as to prevent easy

"access by police officers. I
"enclose a copy of two of the
"standard provisions contained in
"the letters patent for a club
"incorporated under the Ontario
"Corporations Act.
" The Ontario regulations also
"contain a provision similar to the
"special police clause (see enclosure).
" My attention has also been
"drawn to certain provisions of the
"Criminal Code, particularly Section
"168. The exceptions provided by
"Section 168(2) when applied to a
"club operating with a Federal charter,
"in the opinion of Commissioner McNeil,
"permits such a club, if it is intent
"on doing so, to operate in the field
"of gambling under conditions which
"make it almost impossible to secure
"evidence leading to conviction.
" There are some places which
"have given a good deal of trouble
"to the Ontario Provincial Police and
"if you would see fit to adopt the
"requirements and regulations similar
"to those mentioned above applicable
"to any club in Ontario operating
"under a Federal charter, the uniformity

"of requirements thus afforded would,
"in the opinion of the Commissioner
"of Ontario Provincial Police, greatly
"facilitate the enforcement of the
"Federal Code, particularly the
"sections relating to gambling.
" It may be that you would care
"to have a representative of your
"Department discuss the matter in
"more detail with representatives
"of this Department and if so, I
"will certainly be pleased to
"facilitate such arrangement.
" I can assure you that there
"are specific cases which the
"Commissioner has in mind and details
"with respect to such cases are in
"his possession relating ~~to~~ directly
"to this situation."

MR. WILSON: Q. And the copy you have, I take it, is signed by you - the original by you?

A. Well, my copy -- the copy of my letter to Mr. Garrison, and I would identify this copy of my letter to Mr. Garrison, and attached to it was the standard clauses that are used on Provincial charters.

Q. Well then, we are familiar with those clauses.

A. Yes.

Q. Those clauses are attached to the exhibit that we have, are they?

THE COMMISSIONER: Are they?

MR. WILSON: We have had other evidence of it, and it might be convenient to attach the copy.

THE COMMISSIONER: Clip that to Exhibit 67.

A. Maybe I can get a copy from Mr. Wilson, to make sure that I have a copy for my own file.

MR. WILSON: Yes, we will do that.

THE WITNESS: Well, may I say, in connection with that, sir, that on the following day, March 7th, 1955, the Windsor Star, who had been showing a good deal of concern about the Roseland Club carried quite an article in relation to this and gave a good deal of publicity to the very things that were set out in that letter. I would like to file that as an exhibit if I may.

THE COMMISSIONER: Well, we don't want to burden the record with all this --

THE WITNESS: The only thing I wanted --

THE COMMISSIONER: Just a moment, I hadn't quite finished. I don't want to burden the record with a lot of clippings from newspapers.

THE WITNESS: Well, I think that they are extremely important from my standpoint, that this publicity given us, and I just think these things should be drawn to your attention and that is the simply way of doing it.

THE COMMISSIONER: Exhibit 281.

---EXHIBIT NO. 281: Newspaper clipping.

THE WITNESS: I have, sir, in my hand a memorandum of March 20th ---

MR. WILSON: What is the date of that article?

A. The 7th of March, 1956.

MR. WILSON: Mr. Registrar, what is the date there on that?

THE REGISTRAR: March 7th, 1956.

THE WITNESS: Mr. Garson wrote me, sir, on the 23rd of March, 1956, and a copy of that letter itself has been in evidence somewhere along the line.

MR. WILSON: Exhibit 68 is the original letter, I believe.

A. I produce a photostatic copy --

THE COMMISSIONER: It isn't necessary. We have the original letter.

THE WITNESS: I would like to refer to this. Mr. Garson acknowledged the letter --

THE COMMISSIONER: Let me see Exhibit 68.

THE WITNESS: And he refers to the special --

that I have mentioned, and then on page 3 he says - and I would mention one thing that is of importance, that on the first page that it is based on information he received from the Secretary of State that they were no longer incorporating social clubs.

MR. WILSON: Yes, some - under Federal charters?

A. Yes, so that clubs outstanding that were Federal were --

Q. They antedated this. By some years.

A. Yes, and then having reviewed what was put in front of them, I think that that is the gist of that, and I would come over to page 3:

"I must say that I doubt very much
"that Parliament would be prepared
"to enact legislation under which,
"by administrative action, the
"existence of corporations mentioned
"in the third paragraph of this
"letter could be terminated, with
"no opportunity given to the
"corporation to defend itself in
"a court of law against the charges
"made in relation to it."

In other words, the need for a conviction as condition precedent he felt should remain.

It would seem to me that as Section 168(2) of the Criminal Code deals with a place occupied and used by "an incorporated bona fide social club or branch thereof" and it does not make any distinction as to modes of incorporation or as to incorporating authorities, a Federally-incorporated club which offends against the law is in a no more advantageous position than a Provincially-incorporated one; ~~it~~ except, of course, that under your Companies Act you can revoke the charter without giving the club an opportunity of defending itself against the charges brought against it in a court of law.

Since a bona fide social club and its officers and members are not immune from ordinary process and investigation by means of a search warrant, nor from prosecution for obstructing a police officer in the execution of such warrant, I would be inclined to view that we ~~w~~ should not further restrict their right to make a full answer and defence in a court of law to any charges that may be brought against them.

And I have made a note in the margin in pencil at the time, and it was, "What can you charge them with?".

"If, however, there are considerations "that you think we have overlooked

"in my present letter, I would
"be glad to hear further from
"you. We are most anxious to
"co-operate with you in any way
"that we can within proper limits."

I also have a memorandum on my file which is the 22nd of March, 1956 and it relates to two long-distance telephone calls from Mr. Garson that date --

Q. You now produce ---

A. I think this has been produced.

MR. WILSON: No, it hasn't.

THE COMMISSIONER: The memorandum ---

THE WITNESS: This memorandum was dictated by myself at the time that I had two long-distance telephone calls from the Honourable Stuart Garson on March 22nd, 1956, the first of which he mentioned the letter which I have already referred to here, or thought that I had in front of me, but I didn't have it when I was on the phone at that time. He gave me the gist of it and repeated in the conversation pretty much what he said in the letter.

I mentioned to him -- I did say, however, "He did say, however, that there was provision in the Federal Act in the charters and so forth, to enable action to be taken by the Minister of Justice to dissolve a charter or

annul it if the club concerned was not carrying out the business allowed by its charter but doing something else not authorized by the charter."

His second call came to me and was to tell me that:

"He had looked into the matter and "he thought perhaps the Army and "Navy, etcetera, charter might be "for one of the widespread implications "covering a lot of clubs that he "was inclined to feel that the idea "of him instituting proceedings "to dissolve might not be advisable "after all. He said he wasn't going "to release his letter to the press."

The letter to which I have already referred here and I said:

"As far as I was concerned to do "it and I told him when I received "the letter I would not make it "public at the moment in that case, "and would not deal with it either "in public."

(Page 11910)

AS/1

MR. WILSON: Now, I think we have finished with the contact you had with Mr.Garson about this matter?

A. Yes. I think a little later I did have further contact which I would like to make reference to.

A short time later I was in communication with Mr. Garson again. I gave him some detailed information concerning the Army, Navy and Air Force Veterans in Canada, Unit No. 326, known as the Centre Road Veterans Club, and the use of those premises and club as a Croud Observers Corps Observation Post, R.C.A.F.

I should like to produce a photograph; I think this has been here.

THE COMMISSIONER: Just a moment.

MR. WILSON: Let us see; I think itwas a photograph. No. 51, I think. Is that the photograph?

THE REGISTRAR: 50.

MR. WILSON: Q. That is not the one.

A. I mentioned to Mr. Garson something of the -- of the ---

THE COMMISSIONER: Is this an exhibit yet?

MR. WILSON: I just looked at our photograph. That is No. 50.

THE COMMISSIONER: I do not remember seeing this particular one.

MR. WILSON: The one the witness is

producing?

THE COMMISSIONER: Show it to him; show it to Mr. Wilson. (Photograph indicated to Mr. Wilson)

MR. WILSON: Q. No. We have not got that one, Mr. Commissioner.

A. I pointed out to Mr. Garson the wording that appears on the sign of the Centre Road Club, off Highway No. 10. This photograph was taken on April the 16th, 1956, by the Ontario Provincial Police. The sign appears on a scoreboard, and this is what it says on it:

"Ground Observer Corps; Observation
"Post, Code, Name and Number.
"Code, name and number for this
"observation post: Please use it
"on air-ground flash messages;
"all forms and correspondence.
"Love, Peter, Red."

THE COMMISSIONER: Love, Peter, what?

THE WITNESS: Red.

MR. WILSON: Q. Can you explain the significance of those code words to the Commissioner?

A. I do not know really, myself, because they are code words. There may be some significance to them; they are supposed to be code words; it seems to me that this was

being used as a cloak of respectability, in associating with a fortress type of building, to put off established authority and law enforcement.

There are two photographs of the interior, which may have been produced before; but I think these two should be marked.

I have two photographs of the interior taken by the Provincial Police on April the 16th, 1956.

THE COMMISSIONER: We have that one (indicating photograph).

THE WITNESS: You have this one, sir?

THE COMMISSIONER: Yes.

THE WITNESS: This is the one I wanted particularly to draw attention to, and in the context I am speaking of at the moment, this establishes ---

THE COMMISSIONER: Just a moment. Let me see that.

THE WITNESS: I do not know how good your lordship's eyes are, but to my old eyes it is hard to see. If you can read ---

THE COMMISSIONER: I cannot read that.

A. But if we had a magnifying glass, then you should be able to look at it.

There are two certificates of membership and they purport to be signed by the Chief of Staff of the Air Force, hanging on the wall.

Mr. Garson took the matter up with his confrere, the Honourable ---

Q. Are you entering this?

A. Yes, I would like to, sir.

THE COMMISSIONER: Make that one Exhibit 282.

---EXHIBIT NO. 282: Interior of Ground Observers Corps Post No. 326, known as Centre Road Veterans Club.

THE WITNESS: Did you see this one that was taken again?

THE COMMISSIONER: No. We have that one.

THE REGISTRAR: That is Exhibit 50.

THE COMMISSIONER: Attach this photograph as 50-A and 50-B.

---EXHIBIT NO. 50-B: Photograph of outside of Ground Observers Corps Station 326, taken from outside, added to Exhibit 50-A.

THE WITNESS: I understand that Mr. Garson took the matter up with his confrere ----

MR. WILSON: Q. Could we take the date of the contact ---

A. The photographs were all taken on the 16th.

Q. No; but the date that you contacted Mr. Garson.

A. Oh. It was in that period; the 16th of April. In the range, within several days of that period.

THE COMMISSIONER: What year?

A. Of 1956.

Mr. Garson, as I understand, took the matter up with his confrere, the Honourable Mr. Campney, who was then Associate Minister of Defence or actual Minister of Defence at the time, and informed the latter that I was having difficulty in enforcing the law in relation to this particular club operating under the authority of a federal charter, as a ground observer unit.

I believe Mr. Campney favoured removal of this ground observer corps from these premises following my complaint, but the Royal Canadian Air Force apparently did not carry out his intention or instruction.

I am reinforced in this belief by a letter dated April the 5th, 1962, received from the Honourable Douglas Harkness, Minister of National Defence, which I tender herewith for identification, and I would like to read.

MR. WILSON: Q. Have you got a copy?

A. I was going to ask you, Mr. Wilson, to read it, if you would.

Q. I have a copy here; the letter of April -- I beg your pardon. I just want to be sure (comparing two documents).

It is addressed to the witness:

"I refer to our conversations

D/2

"concerning alleged gambling activities in
"the premises occupied by the Army and Navy
"Veterans Association Club, No. 326, at
"Cooksville, Ontario. Some of the members
"of it also appear to have been members of
"the R.C.A.F. Ground Observer Corps Post,
"which used the club premises for the pur-
"poses of reporting aircraft and training.
"I have looked into this matter, and
"find that this situation was first
"brought to the attention of the Department
"in April, 1956, at which time you
"pointed out to the then Minister of
"Justice that the club had a sign on the
"outside/under supervision of National
"Defence. At that time you asked what if
"any authority this club had to carry on
"any activities on behalf of the
"Federal Government.

"Following receipt of your
"letter, the then Minister of National
"Defence had the matter investigated.
"The R.C.A.F. reported to him that
"the premises occupied by the Army,
"Navy and Air Force Veterans'
"Association Club, No. 326, was used
"as a ground observer corps observation

"post, and had proved to be most
"efficient. It was pointed out that
"the volunteer observers who used the
"premises might well be members of the
"club. But, that their duties as
"members of the ground observer corps
"were completely separate from their
"status as such members, and it was
"reported that the Department of
"National Defence had not given any
"authorization whatsoever concerning
"operations of this club, and
"that the club was not associated
"with the department in any way.

"Under the circumstances, however,
"it was considered that it would be advisable
"to move the observation post to other
"quarters, and it was reported that
"steps were being taken to move the
"post as soon as possible. The Instructions
"of Air Force Headquarters in April,
"1956, to move the post were not
"carried out, and it appears to have
"remained in operation on the club
"premises, until August, 1960, when
"the Southern Canada portion of the ground
"observer corps was disbanded. The
"fact that the post hadnot been
moved was not reported to Air Force

"year, and has proved to be by most "criterions. It has indeed not that "the polaroser observers (in real life "problem which will be mentioned at the "time. But, that still defies as "measure of the ground observer corps "will constantly requires from their "superior at each command, and it was "reported to I the Department of "National Defence has not given any "constructive observer concerning "operations of this club, and "that the club was not examined "with the department in any way.

"Under the circumstances, however, "it was considered that it would be advisable "to move the observation post to other "quarters, and it was reported that "steps were being taken to move the "post as soon as possible. The instructions "of Air Force headquarters in April, "1940, to move the post were not "carried out, and it appears to have "resulted in operation on the club "premises, really legal, that, when "this Dominion Command portion of the ground "observer corps was abandoned. The "fact that the post member from "never was not reported to air force

"Headquarters. It is of interest to "note that in the case of the Cooksville "Post, no moneys or materials were "provided by the R.C.A.F. for buildings, "premises or personnel. As in the case of all "Ground Observer Corps posts the personnel "were not members of the R.C.A.F. and were "not paid. It appears that the police were "at no time denied access to the premises "of the Club or otherwise impeded in their investigations because of the Ground Observer "Corpss activities carried on therein."

THE WITNESS; Apparently some of the chief members of this observation corps were some of the officers and operators of the club. And, before the Deputy Provincial Secretary, on February the 11th, 1960, or thereabouts, some evidence was given about this activity, and no doubt the file is here.

MR. WILSON: Yes, that is right. That is April, 1956. In the spring of 1956 did you have some further conferences in regard to the gambling problem in the province?

A. Yes. On the 25th of April, 1956, I had a conference with Commissioner McNeill and the Deputy Attorney General, Mr. Magone, when I dictated the memorandum, a copy of which I now produce. That is April the 5th, 1956; the memorandum for the file "Federal Clubs", etcetera, gambling; dictated by A.K.R.

May I have this marked?

THE COMMISSIONER: You are talking about

MR. WITNESS: Apparently some of the outer members of this observation corps were some of the officers and operators of the club. And, before the Deputy Investigating Secretary, on February 3rd 1940, or thereabouts, some evidence was given about this activity, and no doubt the file is here.

MR. CHAIRMAN: Yes, that is right. This is April, 1940. In the spring of 1940 did you have some further conversations in regard to the gambling problem in the premises?

A. Yes. In the 25th of April, 1940, I had a conference with Commissioner McNOlty and the Deputy Attorney General, Mr. Hughes, when I directed the memorandum, a copy of which I now produce. That is April the 25th, 1940; the memorandum for the file "Federal Clubs", secretary, gambling; dictated by A.A.R.

Any I have this marked?

MR. CHAIRMAN: Yes are taking your

the conference you had with Commissioner McNeill and Mr. Magone?

A. I can give the substance of the conference in this.

(1) Advisability of communicating with Buffalo and Detroit Police Department, with view to getting co-operation inasmuch as most of the persons or users of the club are American.

(2) Provide all possible legislation for regulating clubs; use of premises; type of premises, etcetera, in case it becomes necessary to consider bringing in some remedial legislation to ensure that operators of the clubs in question -- in some clubs cannot be continued.

(3) Commissioner read the report in connection with some investigation, now proceeding, that may have a material bearing in the situation.

And I think that was some reference to some undercover work which was going on at that time.

My desk diary: My desk diary of appointments, etcetera, indicates that at 11.00 a.m. on the 25th of May, 1956, a conference took place between the then Deputy Attorney General, Mr. Magone, and the then Commissioner of the Ontario Provincial

Police, on the subject of gambling.

Frankly, I have no recollection of Sergeant Anderson being present. The entry of Sergeant Anderson of May the 25th, 1956, is spoken about ---

THE COMMISSIONER: What date is that?

MR. WILSON: I was just getting to that. Before we leave this period, I should point out, Mr. Commissioner, that the reference to the ground observer corps is in Exhibit 28, where we have William Lafrade; that is the copy of the evidence given before the Provincial Secretary, or the Deputy. He gives a very elaborate story on the wonderful activities of that corps, and said it was one of the best units operating in Canada, I take it, and that is at page 142 of Exhibit 28.

THE WITNESS: I think I am correct in saying ---

THE COMMISSIONER: I beg your pardon?

MR. WILSON: The diary.(handed to learned counsel)

THE COMMISSIONER: I think it was 69; Anderson's diary.

MR. WILSON: 69, my lord, yes.

Q. You made reference to the entry ----

A. Have you the original? I think it will be best if we could check it. May 25th,

1956?

Q. That is right.

A. The word is "gaming house" dash execute warrants only on complaints dash discontinue trying to get officers in for time being dash to see what happens dash confirmed by Commissioner McNeill.

Is that correct, from your reading of it?

Q. That is not this date. I beg your pardon!

A. I would like to be sure of that, and I think we could have an exact wording of it. Could you give me the original?

Q. "Gaming house" and so on. "Execute warrants only on complaints." It is exactly as you have read.

A. And there is no mention in that particular portion of it, as I point out ---

THE COMMISSIONER: Just a moment.

MR. WILSON: Possibly the Commissioner would like to have it.

THE COMMISSIONER: Just a minute. I understood you as saying, Mr. Roberts, that on May the 25th, 1956, you had a desk diary?

A. Indicating that I had an appointment with the Deputy Attorney General Magone and Commissioner McNeill on the subject of gambling.

Q. But you have no recollection of

that?

A. I have no recollection -- I am not saying he was not there; if he has sworn he was there, it is possible he came with Commissioner McNeill. But I have no

D/3 recollection of his being there.

THE COMMISSIONER: He has that entry in his diary and that is a matter that I should like to have some light shed upon. "Execute warrants only on complaints", etcetera, etcetera.

What information can you give me with respect to that?

A. That is what I am leading up to, sir. I take it this is the original in front of me?

Q. That is his original diary.

A. Yes. There is no reference to me being present at all in connection with it; but I am not saying he was not present.

MR. BREWIN: I cannot hear you.

THE COMMISSIONER: Mr.Brewin says he cannot hear you. Raise your voice.

A. I am merely drawing attention to the original entries of what I understand was the first diary, and the entry in connection with the 25th of May by Sergeant Anderson.

Q. Yes?

A. And you will notice, sir, that

there is no reference to myself at all in that one.

Q. That is right.

A. I have no particular, detailed recollection of this conference, other than they had discussion of the situation, and I thought to eliminate confusion of the persons, dealing directly in the problems of how best we might deal with the problems of gambling.

Now, at this time discussion did take place concerning the best way to deal with the problem.

Since the attempt to get an undercover man in, in various clubs, had not been successful, it may have been that the police felt it would be best, understandably -- if we had some one take part in the game who came forward; and that is how the evidence was obtained, and in the final analysis the only way, as Sergeant Anderson pointed out, and I think very clearly listed, is the Lafrade case.

Now, I would like to mention again that I am merely doing this because I want to draw attention to the record. Sergeant Anderson did enter a diary; did enter a diary later on which covered the whole day; and if I can see the original of that? I have a copy which

has been supplied to me. It has come from the records, as I imagine, and I would like you to identify it for me.

MR. WILSON: Yes. That forms the first part of this diary, the entry of May the 25th, 1956, which has been entered as an exhibit.

THE WITNESS: You turn the page.

THE COMMISSIONER: Follow the same page.

THE WITNESS: I want to be quite clear and fair about this. What is the one I was looking at a moment ago? At the bottom? It is all on the same page?

THE COMMISSIONER: Yes. What you want to refer to now is what is at the top.

A. At the top?

Q. Yes.

A. Again, I suppose it was entered? And the upper part is more adequate than the first entry (indicating):

"8.30 a.m.: Report for duty. Office "duties. 10.30 a.m., with Commissioner "E.V. McNeill to Att General Department -- "K. Roberts re gaming. 2.30 p.m.: "With P.C. Armstrong, Scott, to "Guelph. Contact C.D. re gaming "house. Proceed to Fergus re "investigation club charter; Roseland "Golf Club. Proceed to Galt, check "Grays Greater Shows. Proceed to

"Port Erie. Approximately 12.30 a.m.

"execute warrant to search Canadian

"Merchant Navy Veterans Association.

"Return to Toronto. Off duty 5.00 p.m."

If I read that correctly, I would say, sir, it would indicate after this conference at 10.30 a.m., that that night he executed a warrant to search the Canadian Merchant Navy Veterans Association.

THE COMMISSIONER: I am not quite following that; oh, I see what you mean. After the conference in the morning.

A. After the conference in the morning; that night.

Q. That night, he executed the warrant?

A. Yes.

Q. I see.

A. One thing we know, and that is that the decision that we made was what we believed to be at the time in the best interests of the job to be done under the circumstances, and the conditions of the moment. And it could change from week to week or month to month, depending on the situation as it was reviewed.

Now, I would like again to show this publication ---

MR. WILSON: Q. Before we come to that:

The exhibit shows that the raid was made; the raid was made on that place?

A. The night following the morning appointment.

Q. On May the 25th?

A. Yes. The morning of the 26th; the night of the 25th or the morning of the 26th.

Q. Well ---

THE COMMISSIONER: You had the conference in the morning of the 25th, and on the night of the 25th there was the raid?

MR. WILSON: It is shown as of May the 25th.

THE WITNESS: Then I would again like to refer to a publication, The Windsor Star, of June the 1st, 1956. I was in Windsor.

THE COMMISSIONER: Let me see it.

A. And it showed very clearly what I was thinking of on June the 1st, the week after the 25th of May.

Q. There is no problem; that does not add very much to it.

A. I was down there, and we wanted to accomplish something ---

Q. What is you are saying here?

A. Perhaps it is significant that I said that on June 1st, 1956, and it was published in newspapers to that effect. Could I file this, sir?

Q. I do not think it is necessary. You have got on this record the entries you were making ---

A. They quote me as saying, "We have no power to revoke such charters" -- meaning the federal charter. "If it was a provincial charter it would be different." And that is on June the 1st, 1956.

Q. You have got that right into the record; I do not think we will have it as an exhibit.

A. An examination of the three records, dated August the 9th, 1961, by Sergeant Anderson, relating to the three clubs: The Ramsay Club, also known as Frontier Veterans Association; the Bertie Township, City of Niagara Falls, and the Roseland Veterans Association, of the Township of Stamford South, and the Alpha Country Club, or Centre Road Veterans Association Club, Toronto Township, indicates that, on the Canadian Merchant Navy Veterans Association Club, a warrant was executed on the 25th of May, 1956, by Sergeant Anderson, on the raid, and presumably without warning. And another one was executed on November the 6th, 1956 -- I said on the Roseland -- on the Roseland; a warrant was executed on May 30th, 1956.

Q. We have a record of this.

A. Yes, but the dates ---

Q. What is the exhibit number showing this?

A. 6 and 99; 6 and 134, sir, and 6 again, in relation to those three clubs.

Q. We have a separate exhibit; a record of the raids.

MR. WILSON: 96 and 97.

THE COMMISSIONER: Yes.

MR. WILSON: And 98.

THE WITNESS: And then it further bears out ---

THE COMMISSIONER: Just a moment.

D/4 MR. WILSON: Just a moment. This is related to the Merchant Navy.

THE COMMISSIONER: To the Frontier Club.

MR. WILSON: And then we come to look ---

THE COMMISSIONER: You have no exhibits?

MR. WILSON: We get 134 for the resolution, and its predecessors.

THE WITNESS: And 6, I think.

MR. WILSON: And exhibits?

A. 6, is it?

Q. No -- yes, 6, for the Centre Road.

A. And I mentioned on the 30th of May, 1956, about the warrant issued, or executed on the Roseland Club; and it after appears that the warrant was executed on December the 12th, 1956, on the Centre Road Club premises; continuing police action,

rather than inaction, is, I think, quite evident from these reports. And, for example, the letter of June the 8th, 1956, from Messrs. Herman & Moses, to the Attorney General complaining of police action in the Windsor area.

I would like to file the letter referred to;it is Exhibit 178-D, would it be?

THE COMMISSIONER: Part of 178, in any event.

MR. WILSON: That is right. The letter of July 29th, 1954, is 178-D.

THE COMMISSIONER: What is the date of it?

MR. WILSON: July the 29th.

THE WITNESS: And the one I am referring to is June the 8th, 1956.

MR. WILSON: June the 8th, 1956? We will give you that one.

June the 8th, 1956, is 178-S.

A. And again, noting the date of June the 8th, 1956:

"We regret that we must once "again protest against the outrageous "actions of the Provincial Police "towards this unit."

I only mention that, and with the document of May 30th, because it shows that there is pretty definite, positive activity going on

in the year 1956.

And then we come, sir, to the annual report of the Commissioner of the Ontario Provincial Police for the year 1956, which was tabled early in 1957.

THE COMMISSIONER: Just a moment. Yes?

THE WITNESS: And that would be Exhibit 36-K. And there is the return of criminal prosecutions; there is gambling, and they even had a charge for cock fights;; 54 with 51 convicted. But the detail is set out for that year; and what is the sort of thing going on, and what they were doing.

Thirty-two prosecutions, for example, for gambling devices; conducting lotteries.

Twenty-one prosecutions, seventeen convictions, bookmaking.

Twenty prosecutions, thirteen convictions -- and so on.

And then the Commissioner refers in this 1956 report to an unprecedented highway safety campaign, with fines for the province totalling $1,720,000, pointing out that this was an increase of over $1 million for the previous year.

THE COMMISSIONER: I do not want to get into some field where I have not been invited!

THE WITNESS: Quite right, but I have

to point that out; that that was a year of very great activity, of all our police. And I can claim to have spearheaded that drive for safety. And the Police Commissioner expresses appreciation for counsel, or myself and the Deputy Attorney General, and the Department; and I submit, sir, that I am sure that police surveillance continued into early 1957, when a real drive against all these three clubs unfolded.

And I think that certain correspondence that we have here indicates that: that that was the case. That is, that they stepped up the drive.

On March the 29th, 1957: a confidential memorandum to the Attorney General from Commissioner McNeill. That is Exhibit 71.

THE COMMISSIONER: 21?

THE REGISTRAR: 71, sir.

MR. WILSON: 71.

THE WITNESS: 71.

THE COMMISSIONER: I see.

THE WITNESS: This letter delineates activities, either of two or three clubs. I might say that prior to this date -- some weeks prior to this date, the Commissioner had discussed the matter with me, and then he had dealt with these three District Inspectors: Chatham, Niagara Falls and

Newmarket. The three districts where those three clubs were located.

THE COMMISSIONER: Q. Where?

A. The Chatham district was dealing with the Windsor club; the headquarters at Chatham.

The Niagara Falls headquarters would deal with the Bertie Township clubs, and the Newmarket -- in that town, they had the headquarters of the police in Toronto; but it was in Newmarket, that was District No. 5, and that dealt with the club on Highway No. 10, or off Highway No. 10. And then, this letter indicates that they had worked out a method of attack, and at the conclusion of page 2 I will read that:

"At the conclusion of the "meeting it was agreed that the "following procedure would be taken to "discourage gambling activities in these "Clubs, and in the meantime other "efforts continued to obtain sufficient "evidence to warrant prosecution.

"(1) Sergeant J.M. Anderson "of the Anti-Gambling Branch, with the "co-operation of the above-named "District Inspectors, in charge of "Districts 1, 4 and 5, in which these "three establishments are located,

"will arrange and supervise periodic
"raids. Personnel participating
"in these raids will be instructed
"on the proper procedure to follow and
"conduct themselves in a manner which will
"not give the operators or patrons any
"opportunity to criticise their actions.
"It is felt that if this plan of operation
"is continued, and supported by the
"Department, it might at least
"discourage those responsible for the
"games, and produce a feeling
"of uncertainty in the minds of the
"patrons, especially those from the United
"States who visit the Clubs.

"(2) Police personnel will
"not necessarily conduct raids in
"every instance, but will maintain close
"observation of the premises and frequently
"conduct motor vehicle inspections
"on the roads under our jurisdiction
"which are in close proximity to the
"establishments, and in this manner
"contribute somewhat to the disturbance
"of peace of mind to those
"involved.

"(3) Sergeant Anderson will
"co-operate with the officials of the Fire
"Marshal's Office to ascertain if these

"Clubs are conforming with the fire
"regulations of the Province of Ontario.
"With respect to this item I might
"advise that a representative of the Fire
"Marshal's Office has been in
"touch with Sergeant Anderson, and such
"representative intends to make
"an inspection of the premises as
"soon as possible.

"It is significant to point out
"that although our personnel have made
"a sincere effort to secure membership
"in these Clubs, their applications
"have always been refused by the executive
"of the establishments, without a
"reasonable excuse for rejection being
"given, and despite the fact that our
"personnel are veterans of World War II.

"At the conclusion of the meeting
"it was decided that after several
"raids had been conducted in
"accordance with the above policy, a meeting
"would be held to carefully review
"the results, and further plans of
"operation completed in an effort to
"put these establishments out of
"operation."

MR. WILSON: Q. What gave rise to this series of reports you got from Commissioner

particulars, some of which I have referred to; they are from Commissioner McNeill's report. And when it came to me with the attached memorandum from Mr. Bowman, with the type of thing about gambling, suitable for Mr. Scott, I saw this; and to my amazement -- I read it.

(Page 11930 follows)

E/1/JT
7

MR. WILSON: Q. You are reading from a copy or a report made by Sergeant Anderson?

A. By Sergeant Anderson, dated the 14th of January, 1957. I read in paragraphs - rather, I read the paragraph which is the third from the bottom:

" Following verbal instructions "of the Attorney-General, Mr. Roberts, "that the three alleged gaming "houses operating in the province "be raided only on receipt of direct "complaints, three raids took place "during the year, each one with "nil results. These places still "continue to operate as legitimate "clubs and very few complaints are "received as to their alleged illegal "activities."

That caused me to get in touch with Commissioner McNeil. The House was also opening and we had some questions and answers about general club problems of gambling and there was evolved a plan, a stepped-up plan, to put a full-out drive on to see by that method, within proper legal bounds, if something could be accomplished, something up to now for many, many years apparently had never been accomplished, and that is the position with respect to that.

MR. MILLER: 6. Who are reading from a copy of a Bill which is dropped [illegible]

6. Of dropped Bills, dated the 26th of January, 1927. I read in [illegible] - Indeed, I read the paragraph which is the same from the Commons:

"Pending verbal information "of the Attorney-General, Mr. Roberts, "that his Bill-drafting people "have been working in the province "he replied only on receipt of drafts "implicating, there still had place "during the year, such one with "his records. These places still "continue to operate as legislative "clubs and very few complaints are "received as to their alleged illegal "activities."

Then caused me to get to track this [illegible] Bill. The House has also [illegible] and we had more questions and answers about general club problems of gambling and there was evolved a plan, a mapped-up plan, to put a full-time drive on to see if there actually [illegible] legal [illegible] if something could be accomplished, something up to now for [illegible], many years apparently had passed [illegible] accomplished, but that is the position with [illegible] in [illegible].

It might be of interest to mention the memorandum that was supplied to me by Mr. Bowman, memorandum re gambling.

" The attached copy of a "statement made by the Attorney-"General of the United States to "the Kefauver Committee outlines "the evil that flows from organized "gambling. Laws to suppress it "have been enacted by the Parliament "of Canada and form part of the "Criminal Code. The Provincial "Legislature cannot extend or change "the laws in any way but it has made "the operation of gambling houses "and slot machines more difficult "by passing the Disorderly Houses "Act and the Slot Machine Act. The "former Act provides for procedure "to close up for a period of one "year premises used for illegal "gambling, the latter provides for "seizure and destruction of slot "machines. Responsibility for "enforcement of the Criminal Code "respecting gambling rests with the "Province. The special branch of "the Ontario Provincial Police Force "known as the Anti-gambling Branch,

"discharges their responsibility
"with rigor in all parts of the
"Province in co-operation with
"local police forces or on their
"own. The members of this branch
"last year conducted a strenuous
"campaign of investigation that
"resulted in an average of about
"3 convictions a week and the
"breaking up of many organized
"gambling groups."

And that is dated January the 28th, 1957.

Q. I think you mentioned the Fire Marshal was brought into the picture. Whose idea was that?

A. As a matter of fact, when this stepped-up drive was going on -- we were all, I think, trying to find ways and means. It was obvious it was a real problem and I wondered if our Fire Marshal perhaps couldn't find ~~mk~~ some reasonably good requirement that might be costly enough to cause some real change in the structures of these particular clubs of sufficient expense that in itself might be ~~mxk~~ useful.

Now, I don't know whether I should apologize for such a thought or not, Mr. Commissioner, but at any rate we got the Fire Marshal working on it and he did have some

hearings and he did achieve certain, or make certain orders in relation to that.

Q. So far as that stepped-up campaign is concerned, did you receive, then, during the spring of 1957, regular reports from Commissioner McNeil?

A. Yes, as I said a moment ago, sir, I was thinking I was a bit disturbed by what looked to me as if on something that had happened, or alleged to have happened in May, '56, that might have, that had any bearing or was intended to relate merely to a situation at that particular moment, trying some new method, that I would as late as January of '57 find such a statement as that in the report of Anderson. I wanted to make sure that this particular force was doing some real work in this field and I asked the Commissioner to see I was advised by confidential letter at short intervals for a period until I was sure this thing was proceeding and what they were doing, and that is how it came about I got several letters of a confidential nature in this period.

Q. We have them filed as Exhibit 72, 73 and 74 and also 75.

A. Yes. Perhaps it is not necessary for me to make particular reference to them.

Q. I think they have already been referred to and read.

A. Except to say this, they did begin to show the stepping-up in itself was getting pretty aggressive and in one case -- I say this with some concern -- I read that they were going around with warrants in their pockets produced to suit them at any particular time. I didn't think in the administration of justice that kind of practice could be allowed for very long. Under the section of the Code concerned it is not intended you wander around with search warrants indiscriminately and use them when you feel like it. It could turn into a police state pretty rapidly if that sort of practice was allowed to go very far among your police.

I would insist, of course, they adhere to the section of the Code in relation to warrants.

And then the constant, the very constant raiding, observations made night after night -- I have a summary of all that here I want to refer to -- but very generally now, going on for a period of months it did cause complaints to come in on behalf of these clubs anddid cause concern to both the Deputy and myself in relation as to how far the police are legitimately and properly to do go, and nobody is quicker to stop them when it gets in front of them than one of our judiciary when

they find anything of that sort going on beyond the proper bounds of proper police work.

Now, with all these things going on over that period -- I would like to refer to them in a little more detail here -- we arrived at a certain position which I am leading up to, except to say I want particular note be taken of letters that I mentioned, including the one of April 5th, 1957 which is Exhibit 72, I think, of yours.

Q. That is one of the ones you have just referred to?

A. Yes.

Q. They are memorandums rather than letters?

E/2 A. Yes. And again on April the 12th of 1957 another confidential report covering the same three clubs and pointing out that no evidence of any kind was obtained during these raids. This report concludes with the statement that:

"Every effort is being made to
"place a representative ofthe
"forces or police offiser in these
"premises with the hope that
"sufficient evidence will be
"secured to justify prosecution."

And then that brings me down to the sport on May 10th,'57, again a memorandum, showed

since April 12th several discussions had been held with Messrs. Common, Bowman and Commissioner McNeil with respect to the continued operations of the three clubs and I quote from that one that:

" The present approved modus "operandi with respect to these "three clubs is to be maintained "and wherever circumstances justify "periodic raids are being made."

And then reference is made also to a search of the Bertie Township club on May 6th, 1957 and I quote from that one, but nothing untoward was observed. District Inspector Marsland reported:

" The activities of this "establishment have not sub- "stantially decreased. It is "felt the concentrated action on "the part of our personnel is "having a discouraging or retarding "effect."

And, again, the reports dealt with by the District Inspector at Newmarket in relation to the Toronto Township premises. His report indicates no activity since April 27th. I quote:

"It is felt the patrons and visitors "are being advised to discontinue

"attendance until notified that
"activities of this club are
"being resumed."

I would say an examination of these three reports of August the 9th, 1961, of Sergeant Anderson shows tremendous activity with respect to all three clubs in March, April, May, June and part of July, 1957.

Now, at that point there was a complaint. Mr. Herman, Mr. Louis Herman, wrote under date of April the22nd, 1957, sending a letter with a series of telegrams and correspondence including the following, which one L.J. Johnston wrote to Mr. J.F. MacNamara, Dominion organizer, Army, Navy and Airforce Veterans in Canada, and several wires Herman received from various people and all protesting the type of activity that the club membership was being subjected to, protesting vehemently against permitting a police force -- and I quote because the language was rather picturesque --

" To permit a police force
"to constantly harrass, embarrass,
"hinder, interrogate and annoy
"the members of this club is to
"permit them to mete out punish-
"ment without proof of guilt."

The letter also protested against what

he called unfair newspaper reports of illegal actions. On one or two occasions previously when he had protested police activities I had stressed to Mr. Herman the great disadvantage which our police felt they were under by reason of the clubs he represented operating under Federal charters, indicating we would have much better control were they operating under Provincial charters. He previously had shown no indication of offering to make a switch as evidence of good faith which he from to time alleged on behalf of his clients. And, as he claimed, their legal operations.

THE COMMISSIONER: Q. I like the way you put that, "evidence of good faith".

A. It was put to me as if they were ---

Q. He was alleging good faith?

A. He was alleging. Subsequent events have proved, of course, otherwise, but actually the problems of proof were very difficult at that time.

The spring of 1957 had been a very busy one for me -- and I won't mention the details of that -- but I was away a good deal and then the Deputy Attorney-General was just about to retire, Mr. Magone, and on May 1st of 1957 he retired and Mr. Common took

over as Deputy Attorney-General. I did a good deal of travelling around the Province at thattime and Mr. Common had taken some active part as would appear from a letter dated May the 6th, 1957 from Commissioner McNeill to him outlining the position submitted by Sergeant Match with respect to the Sandwich South premises. It is not shown as being filed on my record here. I would like to file that, if you would read that into the record, Mr. Wilson, for me.

MR. WILSON: This is a memorandum of May 6th, 1957, from Commissioner McNeil to W.B. Common re Army, Navy and Airforce Club, 327 Walker Road, Sandwich South, Ontario:

" I forward herewith for "your information copy of report "dated May 3rd submitted by "Sergeant J.H. Match of Essex "Detachment, having reference to "the activities at the marginally-"captioned gambling establishment. "You will recall our conversation "last week and I thought you would "be interested in the information "pertaining to the method now adopted "by the principals of this club "in refusing admittance to its "patrons. Your attention is specifically

"drawn to the remarks contained
"in paragraph 3 of the report
"of Sergeant Hatch with respect
"that apparently the patrons are
"being refused admittance and
"advised not to return to the
"establishment until further
"notified."

That had not been filed, Mr. Commissioner.

THE COMMISSIONER: Now the Hatch report.

MR. WILSON: Nor the Hatch report, to my knowledge.

THE COMMISSIONER: I was looking for it but I don't recall it. We had better get the Hatch report rather than McNeil's memorandum.

---EXHIBIT NO. 283: Letter, dated May 6,1957, to W.B.Common from Commissioner McNeil, with Sergeant Hatch's report attached thereto.

MR. WILSON; We might get the report and attach it to this document as one exhibit.

THE WITNESS: Then I might saythat Mr. Louis Herman asked for and obtained an appointment for Monday, the 25th of June, 1957.

THE COMMISSIONER: Q. Monday, what?

A. Monday, the 25th of June, 1957. Our records show it was at 2:30 p.m., and this

interview was attended by Mr. Common, the Deputy Attorney-General. Mr. Herman's purpose was to protest violently the police action with respect to the clubs and patrons and also the actions of the senior officials of the Department in permitting this.

As I recall it, there was quite a heated discussion. Mr. Herman at one point, after urging the innocence of his people, indicated his clients would be willing to forsake the shelter of the Federal charter protection, which we had always contended was undesirable, or that he could recommend they would do it -- I am not clear whether he was speaking as solicitor or speaking as for them -- but he gave the clear indication he was ready to have them forsake the Federal charter protection for what I felt was a much stronger position, namely, the Ontario, the authority of Ontario charters which we had always contended had far more control and authority by the Provincial Secretary and the Deputy Provincial Secretary over clubs.

Personally, when Mr. Herman indicated his willingness on his behalf, on his part, I felt it was highly desirable to make this switch, knowing that no longer would it be necessary to obtain a conviction in any of these cases in order to put the particular

club concerned out of business, the type of offences and acts of omission and commission which are provided for in Ontario social club charters, and the practice of the Provincial Secretary's office would be brought into play as required. My advisors, including the Deputy Attorney-General, shared these views. It was understood then steps would be taken to make this changeover if the Provincial Secretary or the Deputy Provincial Secretary would concur and an interdepartmental discussion did take place although I was away on holiday for most of July.

I did come back from Lake Simcoe on the morning of Thursday, July 18th, 1957, and did attend a Cabinet meeting that day. I should also say I had also attended a Cabinet meeting on Thursday, June 27th before going on holidays. I am quite certain that these matters were mentioned on those occasions.

Then on July 18th, 1957, I issued a press release. Also one was issued by the Fire Marshal relating to the Vets Club, No.327 Sandwich South premises, in which he granted an adjournment of three weeks in order for the club to carry out detailed alterations and changes in the premises as had been determined.

Before referring to memoranda in relation to the granting of these Ontario charters, I would like to recapitulate pointing out that the report of August the 9th, 1951, by Sergeant Anderson shows that with respect to the Centre Road Unit No.325 Veterans Association, some 14 warrants were executed, many observations were made over the five months prior to mid-July, 1957. No charges were laid due to evidence being obtained. Likewise, similar evidence of action in Battle Township over the same period indicated by the report shows some 12 warrants executed and 19 observations with no charges. Of course, speaking from the time of these things -- and at this time I can assure your lordship I had not the slightest thought that there was anything such as has been indicated here and was indicated to me, of course, when the Wright matter came up, that there was anything in the nature of leaks going out ahead of these, and if that was the case we wouldn't expect success, but on the basis of what one would hope for, and no knowledge of anything of that sort going on, it seemed to me this kind of procedure ought to have gotten some results by that time if it was going to succeed at all, and wasn't going to deteriorate into the type of action that either

you or myself would want to see go on indefinitely against any individual. Likewise, there was similar evidence of activity in the Windsor area consisting of continuous observations, except Sunday, from six p.m. to two a.m. daily during April, May, June and July. One warrant was issued but no charges were laid. There had been, as I have mentioned, complaints -- bitter complaints -- about this type of activity on the part of the police and I think it is fair to say that our courts do not take too kindly to the type of police action which appears to be overreaching or interfering with the normal rights of citizens.

If I may say so, we in this Province have never countenanced a policy -- not under any Conservative administration anyway - a policy that the end justifies the means, but, rather, that one should only be deprived of his liberty by due process of law.

It is apparent that people in the position of Attorney-General, Deputy Attorney-General, and senior advisors, must keep a proper balance. The rights and liberties of citizens on the one hand must never be unnecessarily reduced or restricted or disregarded, while on the other hand realizing the very difficult work which our police have

to undertake, they are entitled to whole-hearted support within the bounds of proper and sensible police action. It is in that atmosphere I try to operate.

THE COMMISSIONER: Let us get the facts.

A. I want to make clear to you, sir, and everybody, it is in that atmosphere I have always tried to operate in the seven or more years I have been Attorney-General in the Province of Ontario.

At any rate, all this provided a background for it and certainly had its effect on the decision which was made. Since all these clubs had been subjected to continuous and intensive police action over several months, it would be justly that they would be suspect and no one in his right senses would expect the police to give a ~~in~~ clear bill of health to them. We are in the position, in effect, of giving the opportunity tothese three to move themselves and their personnel and their activities from the shelter of the Federal protection to the less sheltered authority and scope of operations as provided by Provincial charters. That is exactly what was done. There is no question about that and there is no question about me accepting full and complete responsibility for it.

I regret very much that some of our police

did not seem to appreciate this course of action, and the real purpose of it as appears from some of the evidence which has been presented. That is unfortunate, it is unfortunate they didn't, if nothing else, read their newspapers. However, it will be recalled, on this Cabinet day, Thursday, July the 18th, 1957 -- the day I came back while on holidays -- from the Parliament Buildings I issued a press release which was widely publicized at the time and which has been read into the record here earlier in these proceedings. I will again ask the ~~m~~ indulgence of Mr. Wilson, if he would read this press release.

MR. BREMIN: I wonder, if it is in the record, if I could have the exhibit number?

MR. WILSON: It is not in the record, it has been read to the record.

THE COMMISSIONER: I remember hearing it.

THE WITNESS: I think perhaps it would be refreshing to get it again, sir, if it could be permitted.

THE COMMISSIONER: Read it, Mr. Wilson.

MR. WILSON: It is a press release issued by the Honourable A.Kelso Roberts,Q.C., July 18th, 1957:

" From time to time there have

"been comments in the press
"concerning alleged gambling in
"certain premises occupied by clubs
"operating under Federal Club charters.
"There are three of these clubs which
"have been mentioned from time to
"time, one located in the Windsor
"area, one in the Niagara Falls
"area, and one in the Metropolitan
"Toronto area.
" The vast majority of in-
"corporated social clubs operating
"in Ontario are incorporated under
"the Ontario Corporations Act, and are
"subject to the jurisdiction and
"practices prescribed by the Provincial
"Secretary. These three clubs
"incorporated under the Federal
"charters have, to say the least,
"left themselves open to suspicion
"by reason of the nature of the
"premises with respect particularly
"to entrance and exit facilities,
"which in the case of Ontario
"Incorporated Clubs would come
"under quick attention and correction.
"The Attorney General of Ontario
"has had discussion with the
"former Minister of Justice concerning

"this situation, but the latter
"did not see fit to adopt a
"similar practice with respect
"to federal chartered clubs in
"existence in the Province of
"Ontario.
" I am glad to say, however,
"that recently the executives of
"the clubs concerned have agreed
"to am subject their clubs to the
"restrictions and requirements
"of the Ontario authority by
"operating under charter of the
"Ontario Provincial Secretary.
"The Honourable George H. Dunbar
"has kindly co-operated to bring
"about this highly desirable
"result. The new charters contain
"the following provisions which
"are contained in most Ontario
"incorporated social club charters:
" 'The corporation is prohibited
" from occupying and using a
" house, room or place as a
" club which, except for the
"provisions of (a) of subsection
" (2) of Section 168 of the
" Criminal Code of Canada, would
" be a common gaming house

" within the meaning of paragraph
" (e) of subsection (1) of the
" said Section 168; and if it
" is made to appear to the
" satisfaction of the Provincial
" Secretary that the corporation
" purports so to use a house,
"room or place, these Letters
" Patent may be cancelled by and
" in the discretion of the
" Lieutenant-Governor.'
"and further:
" 'if it is made to appear to the
" satisfaction of the Provincial
" Secretary that the premises
" occupied by the corporation
" are equipped, guarded or other-
" wise constructed or operated so
" as to hinder or prevent lawful
" access to and inspection of
" such premises by police or fire
" officers or are found fitted or
" provided with any means or
" contrivance for playing any
" game of chance or any mixed
" game of chance and skill, gaming
" or betting, or with any device
" for concealing, removing or
" destroying such means or

" contrivance, these Letters
" Patent may be cancelled by
" and in the discretion of
" the Lieutenant Governor.'
" It will be seen that operating
"in this way under their new charters,
"these clubs which have been suspect
"will be able to operate if they do
"so in a legal manner but if they
"carry on illegal practices they
"will be subject to speedy and
"effective discipline.
" This problem for a number of
"years has given great concern to the
"public and the law enforcement
"authorities and has been a very
"difficult one for the latter to
"resolve. The corporate changes
"indicated in the foregoing statement
"should be beneficial."

That was read in at page 192.

THE WITNESS: Sir, if I may, to show again this received widespread publicity, I produce just one clipping here from the Globe and Mail on July 19th.

THE COMMISSIONER: Page what?

MR. WILSON: 192.

THE WITNESS: Merely confirmation of the widespread publicity given to this press

release at the time.

THE COMMISSIONER: Q. Whether they did give it wide publicity or narrow publicity doesn't affect what you were doing?

A. It affects the thinking of many people sometimes.

Q. We have it on the record now --

A. I merely refer tothe report.

Q. -- the method to try to overcome what the difficulty was.

A. I think I can say this without a problem, this press release did get widespread publicity. That is all I need to say, sir. There is a Fire Marshal's release too the same day. I think this had been filed. Fire Marshal Scott issued a short release which I can read, sir.

"Ontario Fire Marshal W.J.Scott
"stated today that on the adjourned
"hearing of the appeal by the
"Army, Navy and Airforce Veterans
"Unit No.237 at Windsor on an
"order issued under The Fire
"Marshal's Act there was an
"adjournment of three weeks in order
"to enable the sqlub to carry out
"detailed alterations and changes
"in the premises as had been
"discussed at the previous hearing

"and in accordance with a plan

"for the alterations as submitted

"and filed at this hearing."

MR. WILSON: It is one o'clock.

---Whereupon the hearing adjourned at 1:00 p.m. to reconvene at 2:15 o'clock p.m.

(Page 11955 follows)

AA/ADO'N/1

---On resuming at 2.25 p.m.

THE COMMISSIONER: Have you that last exhibit?

THE REGISTRAR: Yes, Exhibit 283.

MR. WILSON: Q. Then, would you just go along?

A. Just to keep the record as complete as I can on this, I would like to refer to a memorandum dated June 5th, 1957, from Commissioner McNeill to the Deputy Attorney General, Mr. Common, relating to the three clubs.

THE COMMISSIONER: Q. What date?

A. June the 5th, sir, 1957. I think it is Exhibit 75, already filed. There was a request in that letter which was turned down by the Commissioner. A request made on behalf ---

THE COMMISSIONER: It is not Exhibit 65.

MR. WILSON: 75.

THE WITNESS: It is nothing of great consequence, other than to point out that the Commissioner of Police turned down a request by Mr. Herman that they be given regular patrol service of this club on Centre Road, to avoid break-ins and thieving and something of that sort.

And then I am just going to refer to these as part of the sequence of events. A

letter from Louis Herman dated July 3rd, 1957, to the Attorney General. These all have to do with the procedures in carrying into effect the interlocking arrangement to transfer from the federal charter to the provincial charters, and I don't think itis necessary for me to do more than just refer to them.

THE COMMISSIONER: Q. You might refer to them, if you know the exhibit number.

A. Yes. The first one, July 3rd, 1957, Exhibit 178, according to my records here. And then Exhibit 58.

Q. Just a moment. Yes?

A. Exhibit 58, a letter dated July 5th, 1957, from Herman, Moses & Rose, per Louis Herman, to the Attorney General, with a copy to Mr. Common.

Then a letter dated July 10th, 1957, from Mr. Cydney to Mr. Bowman re the three clubs, and this is Exhibit 59. That letter supplies the three names, in each case, of the applicants for the new three clubs.

Also a copy of a letter dated July the 11th, 1957, from the Herman firm to the Deputy Provincial Secretary, re Rossland Veterans Association. As a matter of fact, I believe that is 57-B.

MR. WILSON: It is not 57-B.

Q. You said July 11th, 1957?

A. July 11th, 1957.

THE COMMISSIONER: It is not Exhibit 57 at all.

MR. WILSON: A letter from the Deputy Provincial Secretary to Mr. Herman -- from Mr. Herman to the Deputy Provincial Secretary, you are quite right. It is part of 58.

THE WITNESS: 58, is it?

THE COMMISSIONER: Yes. Herman to Cudney.

THE WITNESS: From Mr. Herman to the Deputy Provincial Secretary. That particular letter was re Centre Road Veterans Association with similar observations and materials. There were three letters, one for each club.

Also a memorandum of July 11th, 1957, by Sergeant Anderson to Assistant Commissioner J. Bartlett, re applicants for club charters. That is, I believe, in as Exhibit 9.

MR. WILSON: That is correct.

THE COMMISSIONER: Yes.

THE WITNESS: Those letters that I have mentioned in relation to the undertaking to effect federal charters and the club membership in the premises and so forth, I think you are familiar with them.

THE COMMISSIONER: Q. Yes.

A. And then this one of July the 11th. The Sergeant made a report. This memorandum has already been introduced and indicates that

the Sergeant did make the report in the names of the applicants, the three directors of each of the three clubs concerned, to Assistant Commissioner Bartlett.

It would appear that the following day, July 12th, 1957, in the morning a conference was held between Mr. Common, the Deputy Attorney General, Mr. Bowman, the Director of Public Prosecutions, Assistant Commissioner Bartlett and Sergeant Anderson of the Anti-Gambling Squad, as appears from a memorandum from Mr. Common to myself of July 12th, 1957.

I don't know whether thathas been put in as an exhibit.

MR. WILSON: It has not.

THE WITNESS: If that could be then presented as an exhibit. (Produced)

THE COMMISSIONER: Just a moment.

MR. WILSON: It was referred to yesterday, Mr. Commissioner, but it was not put in.

THE COMMISSIONER: Oh, I see.

THE WITNESS: Perhaps it could be read.

---EXHIBIT NO. 284: Memo from Mr. Common to Mr. Roberts, dated 12th July, 1957.

MR. WILSON: Yes. I will read it in just a second.

A memo from Mr. Common to the witness, dated July 12, 1957, headed, "Suspected gambling clubs". Then it goes on:

"In order to keep you informed of
"this matter and pursuant to our
"telephone conversation of the 11th
AA/2 "instant, I understand from the
"Provincial Secretary's Department
"that the following provincial charters
"are being issued. Centre Road
"Veterans Association. Roseland
"Veterans Association. Frontier
"Veterans Association.

"On the understanding that
"these clubs will occupy the premises
"presently occupied respectively by
"Unit 326, Army, Navy and Air Force
"Veterans in Canada, Roseland Unit
"327, Army,Navy and Air Force
"Veterans in Canada, the Canadian
"Merchant Navy Veterans Association.

"A conference was held this
"morning between myself, W.C. Bowman,
"Q.C., Assistant Commissioner
"Bartlett and Sergeant Anderson of
"the Anti-Gambling Squad. Keeping
"in mind the desired end result,
"that these clubs must not be
"permitted to operate gambling houses
"the following instructions have
"been issued which I understand is
"in line with your views in this

"matter.

"The Provincial Police will no "longer continuously park outside the "premises and will not take the names "of those who enter but they will "maintain observation by way of "periodic patrol and will make raids "when evidence is available which "would justify the same. You will "be kept fully informed as to the "operations of these premises."

THE WITNESS: And then attached tothat letter is the letter that Sergeant Anderson -- or a memorandum, given to E.V. McNeill, July 19th, 1957, which is, in effect, a confirmation of that.

MR. WILSON: Q. Could I see that document, please? I think it is Exhibit 12. I just want to be sure.

THE COMMISSIONER: Yes.

MR. WILSON: Q. Yes. I think it confirms that.

A. And I think, sir, that a reading of the memorandum would indicate clearly to those attending the conference with Mr. Common were aware of the circumstances that morning and knew of the subject matter of the memorandum.

It is noted also on July 12th, 1957, Mr.

Cudney wrote Mr. Bowman, referring to the three clubs, that the three associations had been incorporated under The Corporations Act, 1953. That would be No. 12, I think it is. Exhibit 12.

Q. The memo of July 15th is No. 12..

A. This is July 12th. Mr. Cudney to Mr. Bowman. The significance of this is that merely Mr. Cudney informed Mr. Bowman that the three associations had been incorporated under The Corporations Act, 1953, charters dated July 5th, 1957, to be sent out in a day or so. These three new Ontario corporations are to take the place of the three Dominion associations.

It goes on to say:

"I would draw your attention in "the attached letter to the under- "taking filed by each of the Dominion "associations that they will not "operate a club house."

Q. Now, I think that could be an exhibit.

A. If there is any doubt, I would be glad to put it in.

THE COMMISSIONER: It doesn't make much difference.

Q. These provincial charters were granted with these restrictions?

A. Yes. Now that these three clubs

were operating from the 18th of July, 1957, under the Ontario charters, it is of interest to look again at the three reports of August 9th, 1961, by Sergeant Anderson. One of these reports refers to a memorandum No. 5, D.R.Q. files, July 19th, 1957, and I believe this is part of Exhibit 6.

MR. WILSON: Q. Exhibit 6 is right.

A. The Vets Unit 326, Centre Road, came under observations during August, September, October and November of 1957. Bertie Township premises were observed equally in September, when several warrants were issued, and in October and on into November, 1957.

The Sandwich South Roseland Vets Association came under continuous observation, except Sundays, from August 26th to November 13th, and search warrants were executed on the 21st of September and the 13th of November.

And all this, of course, is from the information in these reports. A review of the material shows that there were a number of police reports in the fall of 1957, concerning the Roseland Club, and as early as the 12th of September, 1957, the Herman, Moses & Rose firm, under the signature of Mr. Lou Herman, was writing Mr. Common again, complaining that there had been continual

harassing of the Roseland Club.

That is already in as Exhibit 178. It looks like "Z". Have you got that far up?

Q. Yes.

A. Yes. 178-Z.

Q. That is correct.

A. I also draw attention particularly to an Ontario Provincial Police report of November 19th, 1957, Essex Detachment, and one of December 3rd, 1957, the latter being quite an extensive one.

Exhibit 135 deals with the December 3rd one, I think.

Q. That is correct.

A. Would you have on record the November 14th, 1957, one? If not, I would be glad to put it in. It is a memorandum from McNeill to Common, dated November 14th, 1957.

Q. I will have to look at that. No, that has not been filed.

---EXHIBIT NO. 205: Letter from Commissioner McNeill to W.B. Common, dated 14th November, 1957.

MR. WILSON: I have not got a copy of that.

THE COMMISSIONER: Just read it.

MR. WILSON: Yes, I will. It is a memorandum from Commissioner McNeill to W.B.

Common, dated November 14th, 1957.

"The Army, Navy and Air Force Veterans in
"Canada Club, Township Sandwich East, Unit 327.
"Confirming our telephone conversation,
"this is to advise that District Inspector
"N. Ramsbottom of No. 1 District Head-
"quarters, Chatham, telephoned this
"office at 10.30 a.m. this date and
"reported that at 11.00 p.m. on the
"night of Wednesday, November 13th,
"personnel of our Essex detachment
"raided marginal premises. As a result,
"charges were laid against 30 individuals
"as found-ins and charges of keeping
"were preferred against the steward,
"Mr. Fitts, and also Messrs. Finnegan
"and Gardner. The accused persons
"appeared before a Justice of the Peace
"last evening, and $1,000 cash bail
"taken from Messrs. Fitts, Finnegan
"and Gardner, and $50 cash bail taken
"from those charged as found-ins.
"Although no dice were located, our
"personnel seized a certain amount of
"chips and money with approximately
"$40,000 of mostly American funds.
AA/3 "Inspector Ramsbottom added that this
"money was seized from individuals
"who had in their possession amounts

"exceeding $500."

A. I might interject there. It might not be necessary to read all the detail. That was the raid that resulted in charges being preferred and two persons being convicted of keeping a common gaming house and terminated activities on the said Sandwich South premises.

It is interesting to note in this particular case that the complaint, which produced the required evidence, was from one who had participated and who was not connected with the police, but who came forward to give his evidence voluntarily.

THE COMMISSIONER: Q. There was a plea of guilty there.

A. Yes, when this man came forward. Mr. Cudney wrote to Mr. Common on February 24th, 1958, advising that an order dated February 14th, 1958, had been issued by the Provincial Secretary, cancelling the letters patent of the Roseland Veterans Association.

Again, for the record, I would like to file this letter. I don't think it has been filed before.

Q. We have somewhere evidence as to the date of the cancellation of the charter.

A. Well, it is definitely by letter sent by Mr. Cudney, advising Mr. Common, dated

the 24th of February, 1958. It is the formal announcement of the Deputy Attorney General.

Q. What was the date of cancellation?

A. The order was dated February 14th, 1958, cancelling the letters patent as of March the 8th, 1958. Apparently that must be complying with some arrangement there.

This, then, was the first of the three of these fortress-like clubs to disappear after having, for years, foiled the police. That was in the early part of 1958, four and a half years ago.

Now, going to the Frontier Veterans Association, Fort Erie, the Ontario charter succeeding Canadian Merchant Navy Veterans Association, we find that as early as July the 31st, 1957, within two weeks of the new Ontario charter, Mr. Harnack's firm was writing the Attorney General, complaining about the actions of the Ontario Provincial Police. The letter is dated July 31st, 1957, already in as Exhibit 178-Y, I believe, complaining they could not get organized meetings started for the organization work of their club.

THE COMMISSIONER: 178, is it?

MR. WILSON: 178-Y.

THE WITNESS: Apparently the place was raided and lawyers did not think it was justified, and I quote from the letter:

"The Provincial Police are not even "permitting the members to organize "the club or get the club records in "order to hold any meetings. The "threats of the police have no place "in police work, nor is it the "function of the police to harass "or embarrass members who are "present at proper discussional "and business meetings of such a "club."

It might now be added that early in 1958, Bertie Townships came under the jurisdiction of Chief Constable Johnston and both forces continued, in that year, their activities, resulting in a number of warrants being issued, and when the one of July 2nd was issued, the club closed down on the 2nd of July, 1958, and I understand it has not since re-opened.

The Fire Marshal had a report on that one, also. This club went out and stayed out. To all intents and purposes, July 2nd, 1958, is the date of its demise. That is four years and several months ago.

Quite recently an order cancelling the Ontario charter of the Frontier Veterans Association was issued by the Provincial Secretary. This was carried through by a formal order which appears in this matter, of

April 17th, 1962. The formal order cancelling, is dated April 10th, 1962, dissolving it for cause and declaring it to be dissolved as of May 1st, 1962. To all intents and purposes, as of July 2nd, 1958, the second of the three major clubs disappeared.

Now I turn to the Centre ---

MR. WILSON: Q. Yes. The third one, the Centre Road?

A. As to the Centre Road Vets, 326 Unit, after July, 1958, the only one of the three still operating, let us look again at the record as reported by Sergeant Anderson in connection with this last fortress-type club.

The report shows that in 1958, between March 24th and June 4th, in an undercover investigation, an attempt by Constable Napolitano ---

THE COMMISSIONER: Q. Napolitano?

A. Napolitano, excuse me, sir. Your Italian is better than mine. An attempt by Constable Napolitano was made to gain entry, but with nil results.

From June 12th to the 19th, 1958, attempts were made by another Provincial Constable, Vertolli, to make contact to gain entry. Results, nil.

Earlier, April 16th to the 23rd, 1958,

observations were made by the Port Credit detachment, and also from the 23rd to the 30th of April, with the results the same.

These observations were discontinued as of June the 12th, by No. 5 D.H.Q. and the Anti-Gambling Branch started observations. That is the district release. As a matter of fact, one of the reasons they released was that they thought they were tying up too many men when they needed them for other work, and the Anti-Gambling Squad started observations.

Then from June 12th to July 19th there were twenty-five days of observations and checking of occupants arriving by automobile at the club. This was discontinued and there is a note in the report that the matter was to be discussed with the Commissioner.

I might observe that Commissioner McNeill retired as of the 31st of July, 1958, although he had been sick, really, for some months previous to that and was not active since the 1st of May, 1958.

Commissioner Clark was appointed on August the 1st, 1958. I believe he had been Acting Commissioner since the 1st of May, 1958.

Then we get into 1959 on this record,

and we see that between March 24th and April 30th there were thirty-six days of observations of the Club premises, and car occupants, on what is stated to be the verbal instructions of the Commissioner.

It is also noted that during the summer and fall three raids were carried out. Then in 1960 six warrants were executed, the last of which was on May the 4th, 1960.

Already filed with the Commissioner is a letter dated September 22nd, 1959, from Miss Hunter, solicitor in the Provincial Secretary's Office, to Chief Garnet McGill of Toronto Township Police, which I believe is Exhibit 38.

MR. WILSON: Yes, that is correct.

THE WITNESS: And that is followed, apparently -- perhaps I should say that that letter is to Garnett McGill, Chief of Police of the Township of Toronto, and I think it was an enquiry by him complied to by Miss Hunter, Solicitor in the Provincial Secretary's office, as to some possible ways of cancelling the provincial charter and giving him some advice along those lines. Apparently at this time there was also some correspondence between Commissioner Clark and Mr.Common and Mr. Bowman, in September and October, 1959, concerning the Centre Road Club charter. The

Commissioner of the Ontario Provincial Police indicated that the operations were violating a clause in the charter which prohibited the premises to be equipped, guarded or otherwise constructed or operated to prevent lawful access to, or inspection of, the premises by police and fire officers.

There has already been filed as an exhibit, a letter dated the 28th of October, 1959, addressed to Mr. R.J. Cudney, Deputy Provincial Secretary, from Chief Garnet McGill, re the Centre Road Vets Club. That is Exhibit 24, I think.

MR. WILSON: Q. That is correct.

A. A copy of which was received at the office of the Attorney General on November 2nd, 1959. A copy had been sent also to the Honourable Leslie Frost, then Prime Minister of Ontario, who had his executive officer communicate with the Department of the Attorney General on the 6th of November, 1959, referring to the same.

Inter-departmental discussions took place between the offices of the Provincial Secretary's Department and that of the Attorney General's Department.

A hearing was undertaken by the Deputy Provincial Secretary, and under date of April 13th, 1960, he wrote to Mr. Comson,

the Deputy Attorney General, giving him considerable information concerning the hearing and ending up by saying that he strongly recommended that the letters patent be cancelled.

That is Exhibit 51, already filed.

Q. That is correct.

A. Or a copy of it. This is the original letter in my hand.

On the 27th of April, 1960, Mr. Common prepared an extensive memorandum on the subject to the Attorney General and came to the same conclusions. Mr. Common recommended thatI should advise the Honourable the Provincial Secretary to take the appropriate action for cancellation of the charter for breaches of conditions 1, 2 and 3, as set out in the memorandum. The charter was cancelled early in June, 1960.

It will be recalled also that in this period a police investigation was proceeding in relation to Constable Wright with Constable Scott as undercover officer.

Then early in March of that year the Deputy Attorney General and the Commissioner of Police spoke to me and informed me of the situation. Early in March of 1960. I believe that when I was first informed of it, some $400 had already been received

by Constable Scott.

On the 26th of April, 1960, my desk diary shows that at 4.00 p.m. I had an interview with Mr. Common and the Commissioner, and at that time this matter was further discussed and I was brought up to date again on the situation.

Again on the 11th of May, at 11.00 a.m., Mr. Common and the Commissioner discussed the matter further with me. It was at this interview that the question of Wright's arrest was discussed at some length.

I might say that I was personally concerned by this time about the position, because it did seem apparent to all of us that a series of crimes was being committed by Wright, with perhaps other involvements, and the ramifications of a person acting in this way, still being on the police force and recognized by the public as a police officer, doing police duties, was something that naturally gave me very considerable concern at this time, as I think it did the others.

In any event, we all agreed that Wright should be arrested and the Commissioner suggested that he be allowed to determine the date, but that it should happen before the end of May, and this was agreed to by all. This was on the 11th of May.

I heard no more about the situation until I returned from the west, as I had gone to Western Canada and the Western United States for several days.

It may be of interest, Mr. Commissioner, but I attended a dinner with no less a celebrity than Perry Mason on that occasion, in Portland, Oregon.

I returned to Toronto on the late evening of the 26th, and proceeding to Ottawa via Cornwall, I think, there being a magistrates' annual meeting at Cornwall, and a Crown Attorneys' annual meeting at Ottawa going on at the same time.

It was when I first met Mr. Common in Ottawa, at a meal, I believe, and I think it was perhaps breakfast, that he brought me up to the minute and also informed me of the hearsay evidence recorded in the diary of Scott, concerning Mr. Common. Nevertheless, we both were aware that Wright was about to be arrested. In fact, the date of arrest was that very day, the 28th, in Belleville, and he was to be taken to Toronto for the following Monday's arraignment.

With the arrest of Wright, I would anticipate that the activities of Feeley and McDermott, in relation to the Centre Road or any other gambling premises, would be

1 considerably curtailed, in effect.
2 Then on the 30th of May, 1960, the
3 cancellation of this charter was decided upon
4 and recommended, so far as I was concerned,
5 at the level of the Minister, and with the
6 concurrence of the Provincial Secretary, who
7 was then Mr. Yaremko.
8 I might make reference to Mr. Common's
9 letter of that date to Mr. Cudney, already
10 an exhibit and filed as 53, giving the
11 opinion that there had been sufficient
12 contravention to authorize cancellation.
13 He recommended cancellation. I think it
14 is apparent, sir, there were two things
15 running at that time. One was this
16 investigation and this report under the
17 Provincial Secretary's jurisdiction, and
18 the undercover police investigation of
19 Scott on Wright, in the same period of time.
20 Wright was arrested on the 28th of
21 May and the recommendation of cancellation
22 was the 30th of May, 1960.
23 I should point out, however, in further
24 explanation, perhaps, that there had been a
25 change in the office of the Provincial
26 Secretary around this time. Dr. Phillips
27 had occupied this office from December 22nd,
28 1958, to May 12th, 1960, and Mr. Yaremko
29 took over as of May 26th, 1960, and was the
30

new Provincial Secretary at the time the decision was made.

On June the 3rd, 1960, Inspector Graham, so I am informed, left a considerable amount of material in the Regina v. Wright, et al, case, including various police reports, with Henry Bull, Q.C., Assistant Crown Attorney for the County of York, and they were in the possession of the York County Crown Attorney's Office for several months.

AA/5

Thus, Mr. Commissioner, disappeared one by one these clubs which, as far back as early 1956, I recognized as flaunting established authority. It was no easy job on the part of any involved in the work of enforcement to bring this very desirable end result. I am pleased to say that it was accomplished in toto during part of the period that I occupied the office of Attorney General.

As I say, some of these clubs had been carrying on under various charters for many years. I have had a recent search made to give me a further history on the Centre Road Club, and I believe that it first operated in East York on Bater Avenue and was known as Garety's Place, so far back that the date is unknown and not ascertainable at the moment.

In 1935 it operated in Cookville in a place known as Moody's for a short period only, and then returned to Bater Avenue. From Bater Avenue the club moved to a building located near the Thorncliffe racetrack and operated there until 1942.

In 1942, I am informed, the club returned to Cookville, which was the year the O.F.F. Anti-Gambling Squad was formed. It had been going for a long, long time before I took office. I sincerely hope it will not be going again for a long, long time after I leave office.

Mr. Commissioner, I say to you that I have never, for one moment in the whole period that I have served as Attorney General, ever had the slightest doubt of the integrity and honesty of the senior members of my legal staff who have been around me during that period, and certainly I have none at this moment. And if you will permit me, I will pause to say if any one in this room gainsays that statement ---

THE COMMISSIONER: After all, that is hardly the way to approach it.

THE WITNESS: Mr.Commissioner, I think at this time I can observe that what I have already said deals with any part that I might have had to play in connection with the

investigation by Constable Scott. This part, of course, was confined to the report made to me from time to time, which I have outlined above, by Commissioner Clark and the Deputy Attorney General. This refers to the charge by the Leader of the Opposition of what he termed stoppage of an investigation, on page 103 of Hansard for November 29th, 1961. Reading his words again:

" . . . what conclusion is possible
"but that it was stopped on the orders
"of the hon. Attorney-General?"

All I can say is that if he had had any genuine desire to ascertain the facts, they could have been obtained very simply from me or from the Deputy or from the Commissioner. However, sir, you have now heard the testimony of the Commissioner, the Deputy Attorney General and myself on this point.

I have already mentioned the position, as it appears to me, in connection with the allegation of suppression of evidence and the flimsy basis, if any basis at all, for such an allegation.

I say also that what I have said, along with the evidence which has been given by others, including the Deputy Provincial Secretary, about the position of granting of three Ontario charters in July, 1957, to

these three clubs which were termed very clearly at the time "suspect" is clear and unequivocal.

Now, sir, I would like to refer to the annual reports of the Commissioner of Provincial Police. I have previously referred to those of 1955 and 1956, and if we look at the report for the year 1957, Exhibit 36-F, on page 32, reference will be found as to the raid of November 13th, 1957, on the Army, Navy and Air Force Veterans Club, 327, situated in the Township of Sandwich South, and a subsequent charge and court hearing, with the convictions registered, and the comment of the Magistrate in connection therewith, as follows:

"An operation so brazen in its "impudent contempt of the law as "to require penalty commensurately "corrective."

The Commissioner goes on to say that the club has remained closed since the final raid by members of the Ontario Provincial Police on November 13th, 1957.

And in the 1958 annual report, pages 31 and 32, there appears the following, and this is Exhibit 36-G.

"During the year, some of the "more prominent gaming houses in the "province, classed as clubs, have

"been forced to close their doors.
"(1) The Vote Club in the Township
"of Sandwich South -- a raid,
"conducted by the Essex Detachment,
"resulted in the conviction of two
"gaming house keepers. These
"premises, long a source oftrouble,
"were eventually closed.
"(2) An intensive investigation
"was conducted in the City of
"Hamilton, by a member of this
"branch, during the latter part
"of 1957. This resulted in
"gaming house charges being
"preferred. These were disposed
"of during 1958. One was a
"chartered club and two unchartered.
"For many years all premises were
"a source of trouble in the
"Hamilton City Police Department
"and two of them to this
"Department. In all, eight
"persons were convicted of keeping
"a common gaming house and jail
"sentences of seventeen months
"imposed; 25 found-ins were
"fined a total of $3,820.00
"and three billiard tables con-
"fiscated. One conviction,

"involving the chartered club, was
"comparable, in size of operation, to
"any of the larger gaming houses in
"the province. All three premises
"are out of operation and the
"charter cancelled.
"(3) The Stone's Health Club, a
"chartered organization, now
"situated within the City of
"Oshawa, but for many years under
"Provincial Police jurisdiction,
"was also brought before the
"courts and a conviction
"registered. Three keepers
"were fined a total of $900,
"16 found-ins -- $160 and $1,153.50
"was forfeited. The cancellation
"of the charter is pending and the
"premises closed.

(Page 11985 follows)

MM/1/38

"4. In the City of Niagara Falls "the Ramsay Club, holding a Federal "charter, was raided during the "month of August. Numerous complaints "had been received regarding alleged "illegal activities being carried on "in these premises. This case is "still pending but should be disposed "of early in the new year. This "club continued to operate for only "a few weeks following the raid.

" In all, 8 clubs were brought "before the Courts during 1958, 4 "were chartered and 4 had no charter. "2 charters were cancelled, "cancellation of the third is pending "and the fourth has not, as yet, "been dealt with."

Now that is the end of the quote taken from the report - rather, the report of the Commissioner, Exhibit 36-H, I think, at page 27 contains the following:

" The Ramsay Club, City of "Niagara Falls, mentioned in the "annual report for 1958, was dealt "with during the year. The "club in question was raided during "the month of August, 1958, but the "case was not disposed of until May,

"1959. The charges against the
"keepers were dismissed, and against
"the 50 found-ins withdrawn.
"Following the dismissal of the
"charge by the presiding magistrate,
"the operators of the club moved
"to new premises in the City of
"Niagara Falls, spending many thousands
"of dollars renovating the building."

The report of the Commissioner for the year 1960, at page 29, contains the following, and I quote, and this is 30-3-1 or 3, and I quote at page 29:

" Two prominent chartered clubs,
"mentioned in previous reports, are
"now closed. The Centre Road
"Veterans Association, Toronto Township
"had its Provincial charter revoked
"and charges are pending against the
"principals. Through co-operative
"police action, the Ramsay Club,
"Niagara Falls, holding a Federal
"charter, has ceased all operations."

I might add that the Commissioner of the Ontario Provincial Police appeared before the Legal Bills Committee at the Ontario Legislature during the Session in 1960 and 1961.

No member of the Opposition addressed any question to the Commissioner at that time

in relation to the question of gambling and gaming about which the Leader of the Opposition, last November, exhibited such tremendous knowledge and concern, and made such indiscriminate accusations.

I would now like to direct attention to page 108 of the Hansard report of the Winterbottom speech of the 29th of November, 1961.

THE COMMISSIONER: Page number?

A. Page 108, sir. The following is recorded:

" It has been widely reported, "Mr. Speaker, that Magistrate Fred "Thompson was threatened some few "years ago on the day before he was "to hear a case against a well-"known gambler. Magistrate Thompson "reported this to the Honourable "Attorney-General. It would be "interesting to know what the "Honourable Attorney-General did about "it."

Magistrate Thompson x has appeared before the Commission and testified showing the hearsay value of the above quotation from Winterbottom's speech. Three parts particularly in the above in this connection are worthy of emphasizing:

one, "threatened"; two, "well-known gambler"; three, "before he was to hear a case".

The evidence of Thompson showed some of these elements. However, he did come up to see the Deputy Attorney-General several days before May 4th, 1959.

At the time he made that visit, he had heard all the evidence in a gambling case in New Toronto concerning operations of the Finnish Club and had reserved his decision, and I believe the name of the person who was convicted is not mentioned - but I believe Kenneth Currier, and he had reserved his decision, at least that is what he told us.

Mr.Common asked to bring him into my office and they came in and Thompson in effect said that after the evidence was in on he received a telephone call from a person whom he said was - and I think your lordship knows the name, and I don't know whether you want me to mention the name here.

THE COMMISSIONER: It has been mentioned so often, mentioning it again isn't going to do any harm.

THE WITNESS: Well, he said James Maloney. He said Maloney told him the case was an important one for his brother to win. He also said Maloney spoke about promotion for the magistrate. Magistrate Thompson, a former

newspaper court reporter, was appointed a deputy magistrate in the autumn of 1955. He was not a lawyer. He had quite a number of persons supporting his application. A number of non-legal men, who had been for many years associated with the work of the Magistrates Court were at or about this same time raised to the rank of Deputy Magistrate, and all, including Thompson, were in the Metropolitan Toronto area and under the direction of Senior Magistrate Thomas Kimore,Q.C.

I felt there should be a distinction between the lawyer-magistrate and the non-lawyer, and after discussing this with my advisors, it was decided that non-lawyers would remain in the Deputy Magistrate group after the two years of probation, so to speak, as during the first two years of office both Deputy and other Magistrates hold office at pleasure, but after two years the security of tenure, desirable in judicial appointments, prevails by statute.

In the case of Thompson there would be no question of promotion in the sense of a move from Deputy to Magistrate. The policy in that respect has been made known. Deputy Magistrate Thompson knew because it has been made clear to him by me in his own case. I am quite sure that Mr. Maloney was aware of it

also.

I told Thompson, in fact both the Deputy and I told him, to go and do his duty and bring in whatever verdict he conscienciously and honestly deemed correct without fear or favour.

This I am sure he did on May 4th, 1959. It was obvious at that point that a phone call by itself would require more evidence if any action were contemplated at the instance of the Magistrate.

And I would note that even, sir, then that he was not 100 per cent positive, although the facts he gave led him to believe, I think, undoubtedly, that it was the person stated.

I tried to get in touch with Mr. Mike Maloney shortly after the Magistrate's visit, but did not succeed.

It will be recalled that a Provincial general election was beginning about that time, and as a matter of fact the Writ of Election was issued on May 4th, 1959 and the election day was June 11th, 1959.

It was obviously a busy period for candidates all over Ontario. I heard no more from Thompson.

An opportunity did arise later to speak to Mr. James Maloney. It was a telephone conversation and he, Maloney, denied ever having

spoken to Thompson on the telephone or otherwise about the Finnish Club case.

Mr. Maloney, later issued a public statement a few months before his death, in which he repeated this.

MM/2

I have a signed copy of this statement, a photostatic of which has been entered as an exhibit - Exhibit 147, filed, when Magistrate Thompson was giving his evidence in the box. This signed copy was delivered to me by the present Minister of Mines.

I refer to Exhibit 147 ---

THE COMMISSIONER: What page?

THE WITNESS: The 14th of May, which was the evidence of Thompson.

MR. WILSON: Is it dated --

A. No, it has no date, but there was a newspaper publication of it, and I could get the date of publication if it is of any assistance.

THE COMMISSIONER: It appeared about that time?

A. No, I didn't get this until I got it from the present Minister of Mines, after the death of Mr. Maloney.

Q. I thought you said that you got it from Mr. Maloney?

A. No, a signed copy was delivered to me by the present ---

Q. Oh.

A. --- Minister of Mines.

Q. Mr. Maloney, the the city editor of the Globe and Mail, dated June, 1961. Well, that would be pretty close to the date of date of the complaint - what is the date of the complaint?

A. Some time before that.

Q. By Magistrate Thompson?

A. Some time before that, May,1959, or the end of April, several days before May 4th, 1959 when he came to see me.

Q. What was the date that you first spoke to Maloney about it?

A. Well, sir, I tried to get that date in my mind, but I couldn't be too sure when it was. I know it was some time after the election, but as I say, the intervening election ---

Q. The election was when?

A. The election was the 11th of June, 1959.

Q. How long after the election?

A. Well, it was some little while after the election. I would say as a matter of fact, the approach of Thompson at the time, and the uncertainty of it - the fact that he did his job, and that he didn't leave this thing with me - I wasn't too seriously concerned.

Q. Why weren't you seriously concerned?

A. For this reason I wasn't too seriously concerned, the suggestion was made as to the promotion of Magistrate Thompson, and Thompson knew perfectly well ---

Q. No, no, that is not the point. I think the serious part of that, Mr. Roberts, is this. He was a magistrate complaining of someone - that someone had attempted to interfere, and I would like to hear something from you on this. What, if anything, did you do, apart from telling Thompson to go back and do his duty? What, if anything, did you do ---

A. Well, put it this way. We told him to go back and do his duty as we took the view right at the time that any magistrate, certainly,or judge, faced with any situation of that sort would be the person to deal with it, and the only person probably who could get firsthand information about it, where it occurred in the way that it occurred here, and it was certainly not impressed on my mind that there was any certainty of the magistrate if he accused Mr. Maloney, he wasn't certain whether it was, for certain, Maloney's voice that he heard.

Now he left that vagueness about it at

the time, and he didn't know 100 per cent that it was Mr. Maloney's voice, and since the case had already been - the evidence had already been in and the magistrate had to make his decision, it seemed to me that the thing for him to do was to go in and make his decision. It seemed to me that if there was anything further that he should do, it should corroborate or get evidence as to the person who made the call, and that he was the one todeal with it.

Q. I don't quite follow that.

A. Well, let me put it this way, sir. I wouldn't imagine that anyone holding a judicial position would tolerate somebody trying to influence him in his duty, if he himself, the person on the bench, was not taking whatever steps were necessary to bring the person to justice. I would maybe expect it of somebody who knew nothing about it, but he could have taken the matter - he could have complained or laid a complaint or sworn out an Information if he thought he had enough evidence. If anybody else had come up to me, I suppose, because he had doubt and he wanted this promotion, and he was talking about a Minister of the Cabinet, and he didn't impress me very much, sir.

Q. All right.

A. Then at page 108 also of the Wintermeyer speech, reference is made to another report, ---

Q. But what steps?

A. Well, Mr. Maloney did say that to me, that he never made such a statement.

Q. The point I was interested in, Mr. Roberts, is this; when did you interview Maloney?

A. Well, I would say, sir, that I tried to get him shortly afterwards, but I didn't succeed and the election intervened, and it would be some considerable time before I saw him.

Q. What do you mean "considerable time"?

A. Well, perhaps within a period of three or four months I met him the first time - I met him, I recall it, and I spoke to him on the telephone actually and he gave me this information over the telephone that he did not - that he had not said anything to this man. I accepted that, and if you want me to - I don't want to go into it much here, unless you want me to, as obviously it is not the sort of business that a fellow colleague - if he said he didn't do it, for me to bring him to cross-examination in a matter of that sort, and I didn't feel that there was anything

further that I would be expected to do under those circumstances, particularly if the magistrate had registered his conviction and done the job he should have done, and certainly no one influenced him in any way in the type of consideration that it was suggested. It was a promotion - which I certainly couldn't in any way see that it had any - it could have had any influence over the court of justice.

Q. The promotion?

A. The promotion.

Q. I don't see that the matter of promotion has anything to do with it, Mr.Roberts. Let us assume that under the policy of the Department, he being a lawyer, was not entitled to be promoted to permanent staff as a magistrate; let us assume all that.

The magistrate reported to you that this man had attempted to influence him and to interfere with him, and you felt that you were not impressed with the degree of certainty that the magistrate had as to the identity of the man who telephoned him?

A. Yes.

Q. But you didn't dismiss the matter because the question of promotion had anything to do with it, did you?

A. Well, let us put it this way. This wouldn't have been the first occasion at

some stage where somebody had suspicions of somebody trying to influence the person, and in some of the cases of that nature subsequently charges were laid, but when this was first presented to the Crown or the police officer the persons concerned were told to go and take certain steps to get evidence. Now surely nobody would expect the Attorney-General to be going looking for evidence of that nature. When this was presented to me, in my view on the uncorroborated, and certainly not when the person that is telling this statement that the telephone call had come to him from Mr. Maloney - he wasn't sure - on that alone I would not be prepared to go very far in trying to solve that problem myself.

I would say, very much so, if the magistrate was convinced that that was the case and he perhaps alone had the power to have developed it and to have got evidence that he needed to make the charge, and he would be justified, and I would say that to any person occupying a judicial position.

Q. I look at it a little differently, I think. Here is one of your appointees whom some outside individual had been trying to influence, and do you not perhaps think that you owed some duty to your appointment to pursue the matter a little further right then

and there?

A. I did not, not on the way it was presented to me, and I don't fancy that a magistrate with any backbone would act that way in the first place. They solve their problems themselves. He in fact did talk to the senior magistrate - he talked to the senior magistrate and I think then he was told to follow a certain procedure, he being directly under Magistrate Elmore.

Q. All right.

MR. WILSON: Now I think there is another reference at page 108 to Magistrate Addison. Would you deal with that?

A. Yes, at page 108 also of the Wintermeyer speech, reference is made to another report - this time concerning Magistrate Addison. I quote again:

"It would be interesting, Mr. Speaker, "to know what steps, if any, the "Honourable Attorney-General took "in this matter."

Magistrate Addison at no time made any report to me, verbally or otherwise, concerning any attempt at bribery.

Mr Commissioner, during the spring of 1961, I spent a considerable amount of time preparing three addresses concerning police work and crime.

In these three addresses, I covered the situation very fully, as I believe. I would like to produce them now and have them marked for identification.

THE COMMISSIONER: Just a moment now. Just one minute. What is the purpose of this, Mr. Roberts? I understand that you made three addresses to ---

A. The police organization and organization in crime, which is an answer to the distortion, in my opinion, of the view thatI would take in respect to crime, and particularly what we call "organized" or "syndicate crime". Those - my statements have been so misquoted in many respects that I would like to put the actual statement on the record for what it is worth.

Q. I don't think it is worth anything.

A. I won't bother you then.

Q. In effect you made a speech?

A. I made several speeches.

Q. Several speeches in several places, but I don't think it would help me in my search for the truth to what the facts are.

A. Well, sir, I don't want to go beyond what is your desire in that connection.

Q. Well, I don't think it will help me a bit.

MR. WILSON: Mr. Commissioner, there is

this point, that the speech suggests that there was a condition of organized crime which the Attorney-General failed to recognize and wrongly diagnosed, and I take it that if he is not allowed to state his opinion - what his opinion was as to the state of crime, that my friends will have no opportunity to cross-examine on that point.

THE COMMISSIONER: What is that again?

MR. WILSON: I say, if he is not allowed to state his ---

THE COMMISSIONER: He can't state it here.

MR. WILSON: Yes.

THE COMMISSIONER: He can state what his attitude was with respect to crime, but I am not going to get here the contents of some speeches that he made somewhere else.

MR. WILSON: I am not suggesting that he give evidence to that - but he can give evidence as to what his position was and he can give ---

THE COMMISSIONER: He is entitled to tell what his position was all along, and what it has been, but I don't get that from copies of speeches that he has made some place.

MR. WILSON: Well, I think he is simply using that as corroboration of his position, and he will develop what his reasoning was ---

THE COMMISSIONER: He has told us today

what it is, and if he has anything else from the witness it is perfectly in order, but it seems to me a rather strange way of getting at it, for the witness today, "I made a speech four years ago on something and I would like to read it here now."

MR. BREWIN: We would be here a long time.

THE COMMISSIONER: Never mind, I am speaking to this witness now, Mr. Brewin. I made a ruling, and you don't need to add anything to it, or make a speech of your own.

MR. BREWIN: I thought that Mr. Wilson had accepted this.

THE COMMISSIONER: He hasn't convinced me that I should.

THE WITNESS: The point I am making is simply this, that on the basis of the information which I obtained from people who I felt had the best source of information, I made certain statements with regard to the whole problem in this province as I saw it, and these statements were made after the arrest of the people and after any of the offences that have been referred to here, or some considerable period of time, at present, not in the period of years gone by, and which may have existed then, that the movements that I instituted here would end in convictions

and cancellations, and bring the era to an end, I hoped. At the time that these things happened was some little while back. Now I was talking at any time subsequent to that in terms and in present in the year 1961 or the year 1962 as I see the situation as it is at this time, and I am informed by the type ofpeople who I think should know what the situation is now, and it was in that line that I was going to make some excerpts from that address, but ---

THE COMMISSIONER: No, I don't think.so.

THE WITNESS: I don't think it is necessary but I did say that it had always been in our dealings with crime that the enforcement officers were aware that they should hit hard continuously for the protection and the prevention of crime which the people here have every right to expect and that we will usually end up successful - with successful charges and disposition of those charges by our courts of law which is the proper way for that sort of thing to happen.

MR. WILSON: Q. Now where did you, as the Attorney-General, get the information as to the state of crime in this province from time to time?

A. Yes, well, I would refer again here, with his lordship's permission, to three

transcripts of evidence which I would be happy to put in if you wish. In fact, I think they should go in, as this question is pertinent.

Q. Tell the Commissioner what they are.

A. These sources that I went to in the spring of 1961 ---

THE COMMISSIONER: As to what?

A. As to the state of crime and what, if anything, was lacking or should be done, and how it should be done. Now the three people I went to - these groups that I went to were the following, and I will take them in sequence as they are taken: On May 5th, 1961, of the Magistrates of Ontario, they met with me, and it was a closed session and the transcript was taken of the discussion and it was all aimed at the question of crime. And then on Saturday, May 13th, 1961, the Crown Attorneys met with me and had a similar session, and a transcript was taken, who opened the discussion was available then, and they were in fact called and gave their views, and it was recorded.

Thirdly, the Chief Constables Association of Ontario meeting, at North Bay, on Thursday, June 1st, 1961, and the same procedure was followed with them.

Q. What led to the sort of concentration

and every effort on your part in May or June of '61 to inquire into whether ---

A. I think perhaps at this particular time, there had been a good deal of publicity given to certain phases of this - first the preliminary hearing of this trial of Feeley, Wright and McDermott. And there were feelings, perhaps, that I should get every possible information to find out what the situation was, and I think I also at that time -- there had been some suggestion, and I know that the Liberal Opposition for one was raising xx questions of insufficient crime control in a general way, and I think I remember - if I remember rightly, I think that Mr. - the R.C.M.P. ---

MR. WILSON: Mr. Harvison.

A. Mr. Harvison - made some speech and some reference was made about crime, sir, and I was trying to get on top of the situation here and get the best possible information in relation to it.

THE COMMISSIONER: That prompts me to inquire from you, whether or not you think there is any merit in this. I suppose it would be proper to say that the Attorney-General in the Province, or in any province, is regarded as a custodian of law and order within the province.

A. He is a senior law-enforcement officer.

THE COMMISSIONER: Senior law-enforcement officer, and if there is an epidemic of crime in the Province, naturally there is - there tends to be some adverse reflection on the Attorney-General. Do you agree with that so far?

A. Yes, in this particular situation, I would certainly be tempted to agree, there is no doubt about that.

Q. Well then, what method is used currently, by which the Attorney-General at all times is familiar with the state of crime throughout the Province? As I understand it, and you recall that I discussed this matter with you and Mr. Common and Mr. Wilson in the earlier days of this Commission, and we were learning something about the Attorney-General's - the arrangement of the Attorney-General's Department. As I understand it now, the only reports the Attorney-General gets are the annual reports of the Inspector of Legal Offices.

Take an illustration. Take Middlesex County, the Inspector of Legal Offices makes an annual inspection, then he makes a report to you that he - at the end of the year?

A. Yes.

Q. And that report is tabled in the

House, isn't it?

A. Yes.

Q. And the purpose of that report essentially is ~~xx~~ sort of an accounting, as it were, magistrates collecting certain fines, and making remissions and disbursements and so forth. The main purpose of that report is sort of an accounting?

A. Oh, I think as far as the report goes, as far as the Inspector of Legal Offices is concerned, he occupies the room above me, and he is in my office half a dozen times a week I would say, andabout matters of current -- there is no doubt about it that he brings me on top of current things, as he has them he is bringing them to me, and I wouldn't have any hesitation in saying that he would - that I would apprently ~~x~~be advised of conditions throughout the province through the Inspector of Legal Offices, not by any annual report, but by almost daily contact with him.

Q. Well, how often does he, for example, go down to Essex County?

A. Well, he is around the county quite a lot.

Q. I know, but how often does he go into any particular county?

A. Well, I wouldn't answer that for him, but I would say that I would - that he would

manage to be there at least a few times a year. He was in Pembroke the other day when I was trying to get him, and in Kingston another day when I was trying to get him, and we have an intercom between his office and mine, but he moves around a lot, and as a matter of fact, then again if there is ever any question or complaints, I sometimes get the complaint, and they are referred to me. And sometimes he will go down and put the situation right, and that goes on regularly.

Q. That is in the field of the courts, and your sources of information as to the ---

A. That is criminal.

Q. Your sources of information as to the state of law and order throughout the Province are, one, the information conveyed to you by the Inspector of Legal Offices?

A. Hm,hmm.

Q. Two, --

A. I ---

Q. Just a minute. Two, information that would come to you where there are appeals against convictions.

A. The public - the Director of Public Prosecutions office, yes.

Q. Where there are convictions - there is a conviction down in Essex County of someone on an indictable charge and the accused

appeals, the notice of that appeal is served on someone in your Department?

A. That's right.

Q. My understanding is that it is the first notice the Attorney-General gets of that particular incident?

A. I would think -- I don't think so. Because the normal course - we have these Crown Attorneys in all these different areas who are responsible.

Q. If there is no appeal, then you don't learn anything about it until you get your annual report from the Inspector of Legal Offices? And you learn anything by that time?

A. Well, of course there are checks and counterchecks, sir.

Q. There are? That is what I want to know.

A. There is a good deal of checking and counterchecks because if they - or the people get started up about an insufficiency, let us say, of sentence, it gets to me pretty quickly.

Q. Well, I have an idea I want to try on you, so to speak. Why shouldn't the Crown Attorney in each county throughout the Province make some sort of a regular monthly, if you like, report, to the Attorney-General

reporting prosecutions, the nature of offence, and sentence, and so forth, so that you could report from Essex County and say in the month of May in any given year, and you could go to June and look at June and say, "How does that compare with May?". "Well, there has been an epidemic broken out of breaking and entering." They go from one part of the province to the other preying upon one part, and then preying upon another part, and wouldn't that be helpful?

A. I don't think that would be necessary, and this is an offhand comment, because I - you put it to me this way, sir, and I haven't given it very much thought, but I think that we have not - if anything, we are over-organized, but we have the coordinator of justice and administration. We have the new Chief Judge for the county court system whose job it is - he keeps close contact with the whole county courts of the province and their problems. We have the Magistrates Association, and we have them divided into districts for districts. We have meetings regularly with the districts, and we have them presenting briefs to me regularly on the condition of the situations as they see it from time to time.

Q. That sort of thing is going on now,

they present briefs to you?

A. The Magistrates Association from time to time discuss with me as a group --

Q. How regular?

A. Well, they might sectionally - Magistrate Bartram has been very active in this and has done a very, very good job, in the matter of organizing. And Magistrate Rennicks, president at the present time, formed the idea and gave a very long brief on several subjects. Magistrate Bigelow has been preparing a ~~manual~~ book and was given three months leave of absence from the bench to prepare a book with the assistance of several others on various phases of the work of a magistrate and the principle of sentencing.

Q. But on the incidence of crime from time to time -- is that in the given areas throughout the Province?

A. Well, on the incidence of crime again I don't think that it would be -- If there is any epidemic in any part of the Province of Ontario, from the wide method of correspondence and communication that exists, with the C.P.P.'s, I think - since I have been there, and put in this teletype business, we have placed a message and asked for statistics concerning the state of, for example, the state of criminal dockets throughout the

Province as of a given date, and get it
EM/5 back within hours. I sent out messages to find out a waiting list or delayed list in relation to our civil actions in the Province from every court --

Q. I am not thinking of that, I am confining my attention to the area of crime. You shouldn't --

A. Well, we can communicate ---

Q. These reports - they would act like a mirror to reflect conditions of law and order throughout all the parts of the Province at any given time.

(Page 12015 follows)

THE WITNESS: So, you are listening to and hearing evidence, and you may have a very good recommendation on what should be done.

THE COMMISSIONER: All right, have you had any recommendation?

A. I want to think about that, because I think I could, given a day or two to prepare, to prepare a pretty fair memorandum of the sources at the present time; and I would like an opportunity of doing that.

Q. I would be glad to have it done.

Is that all, Mr. Wilson?

MR. WILSON: Q. You have given names of the three sources for informing you, as to the state of crime, and you have discussed with the Commissioner certain other sources.

Have you in fact received any substantial reports on the state of crime and the existence of organized crime in recent years?

A. Yes. I would like to make reference to -- could I have this marked?

THE COMMISSIONER: What are they?

A. These are the three transcripts of these three ---

Q. You told me that you do get reports; I mean, you do get reports from the Magistrates and Crown Attorneys; and who else?

A. And the Chief Constables; all of them in session, across the province. And I

would say that it was from sources of that sort and this, that I am going to mention the statements that I have made in relation to this problem; it is on that that they are based. They are the sources on which I try to come to my conclusions in relation to the particular subject, in this field of knowledge, which may have been in effect, both pro and con.

Q. As a matter of fact, it struck me that perhaps it was not quite fair to ask the Attorney General at any time what is the state of crime in any particular part of the province, by reason of the paucity of information that he has. He would have to stop and say, "I willhave to get in touch with some one in that part and find out."

A. I would say the fact that as far as I am concerned, if the state of crime increased in any one particular section, and I would not have knowledge -- if I did not have any particular knowledge of it -- I mean, when it is massive! I mean, itwould not be massive without that knowledge coming to me; I am certain of that. I am certain of thecommunications that we have, of the condition, from the people in my staff; almost 3500 of them scattered across the province. I would not have any question in

my mind of not having advice of any massive situation. Of course, individual situations could miss out.

Since your lordship has brought up this question, I would like to have a memorandum showing the line of communication with our Department.

Q. I would be glad to have it.

A. If there is anything else that could be of help to you, you could have that.

Q. You could get it for me?

A. Yes. I will see that it is done as quickly as possible.

I would like to ask permission, also, to mentions a letter dated the 23rd of November, 1961, in the form of a memorandum to myself from the Commissioner for Police of Ontario, W.H. Clark, headed, "Re Syndicated Organized Crime in Ontario".

Q. And dated?

A. The 23rd of November, 1961; in fact, if Mr. Wilson would refer to this? If he wants to shorten it up, giving the gist of it, that is all right; but I would like it to be noted.

MR. WILSON: Q. I also have a copy of it.

A. This is the letter, then, of the 23rd of November, 1961. It is becoming somewhat

instant, with the date of notation here.

Q. This is dated November 23rd, 1960; it is 1960, and it is a memorandum to the Honourable A.K. Roberts, Q.C., Attorney General, Ontario:

"Re Syndicated, Organized Crime, Ontario.

"I have the honour to advise that "Inspector J.H. Hatch, in charge of our "Anti-Gambling Branch, recently visited "the following cities in the province "and discussed with the chief constable, "or in his absence, a senior police "official, the question whether or not "syndicated or organized crime did "exist within the municipalities: "Windsor, Chatham, Kitchener, Guelph, "Hamilton, London.

"Comments of the various chief "constables: Windsor: Chief Constable "C.W. Farrow: The term organized crime "has never been defined to my satis- "faction. In my opinion, there is no "organized crime in the city.

"Chatham . . ."

THE COMMISSIONER: That is rather a strange one; since organized crime is not defined, there is not any here.

MR. WILSON: No. He said it has not been defined "to my satisfaction".

THE COMMISSIONER: But he said there is not any, here!

MR. WILSON: He says there is no organized crime in the city; I must concede that there are different definitions of organized crime.

"Chatham -- Chief Constable C.E. Bagnell.

"He states there is no organized crime "in Chatham.

"Kitchener: Chief Constable "J.E. Patrick: He states that organized "crime was not within his jurisdiction; "there were a few bookies, but with "the assistance of the Anti-Gambling "Branch, they have been kept suppressed.

"Guelph: Deputy Chief Gill: "He states that organized crime was "not within the City of Guelph. Only "one or two bookies operating.

"London: Chief Constable A.E. "Knight -- states that organized crime, "as stated by R.C.M.P. Commissioner "C.W. Harvison, was not within his "city. Several bookies are alleged "to be ograting within the city.

"Hamilton -- Inspector Robson, "officer in chief morality, states "no organized crime in the City of "Hamilton at the present time.

"Two well known characters are under

"strict surveillance to prevent the
"formation of what might become a
"syndicate (Papalia and Marchildon).

"Inspector Hatch does express
"his own opinion insofar as the
"Counties of Essex and Kent are
"concerned. He was stationed in
"that area for many years. He
"advises that American interests in
"gambling were withdrawn from the
"area four years ago. There are a
"few bookies operating in the Windsor
"area, but there is nothing to
"substantiate any thought that they
"are part of a syndicate.

"Having reference to the Anti-
"Gambling Squad which operates from
"our headquarters here in Toronto, I
"direct your attention to the fact
"that during the current year, 1961,
"successful raids were carried out
"in the following municipalities in
"connection with bookmaking and
"betting: Aylmer, Port Erie, Oshawa,
"Simcoe, Brantford, London, Port
"Colborne, Thorold, Toronto Township,
"Cobourg, Humberstone Township, Port
"Credit, Tillsonburg.

"Thirty-eight prosecutions were

"launched, which resulted in 28 convictions,
"5 dismissals, four withdrawals, and
cc/2 "one remanded for sentence. The
"28 convictions resulted in total fines
"in the amount of $11,325 being imposed.
"In addition to the above, 11 other
"charges are awaiting hearings in
"various magistrates' courts. The
"attached list in connection with all
"the above mentioned is self-explanatory.

"I have this date, November 23rd,
"been in telephone communication with
"Chief Constable J. Mackay,
"Metropolitan Toronto Police
"Department, and have been advised
"by him that, to his knowledge, there
"is no organized or syndicated crime
"in the municipality under his
"jurisdiction.

"In reply to your enquiry, please
"be advised that, in the municipality
"of Metropolitan Toronto, where Bingo
"games are held in public halls, a
"public hall licence would be in
"existence covering the premises;
"having been issued by the Metropolitan
"Toronto Licensing Commission. Where
"Bingo games are held in church
"premises, no public hall licence is

"necessary.

"Chief Constable C.H. Fay of "Niagara Falls, states they have no "organized crime, that gambling "activities are exceptionally quiet, "and that in his 31 years with the "Niagara Falls Police Department he "has never seen the criminal element "so quiet. He states that he "believes the gambling element of "Niagara Falls, Ontario, go to "Niagara Falls, New York, or Buffalo, "New York, to engage in gambling "activities."

That is the reversal; that is the end of it, and that is Exhibit 286.

---EXHIBIT NO. 286: Memorandum to the Hon. A.K. Roberts, Q.C., from Commissioner W.H. Clark, Commissioner for Police for Ontario.

THE WITNESS: Then, sir, I would like to refer to a letter dated November the 15th, 1961; a memorandum from Commissioner Clark to myself.

Q. What is the date ---

A. I am going to use your voice as much as I am to get a breather.

MR. WILSON: This is a report from Commissioner Clark, to the Attorney General, of November the 16th -- I beg your pardon,

November the 15th, 1961, re syndicated, organized crime.

THE COMMISSIONER: I thought the other one was from Clark to the Attorney General; of November the 23rd?

MR. WILSON: But this apparently deals with a specific point. The heading reads, "Syndicated, organized crime. Address by Commissioner W.C. Harvison, Royal Canadian Mounted Police, Monday, November the 6th, 1961, at Toronto."

I have not read the document; I take it it is a comment on his remarks.

"I have the honour to advise "that on Thursday, November the 9th, "1961, I met with Commissioner C.W. "Harvison of the Royal Canadian "Mounted Police at his headquarters "at Ottawa. During a two and one-"half hour discussion on general "police matters, brief mention was "made to his address to the "Canadian Club at Toronto on Monday, "November 6, in which he made "reference to organized crime in "Canada.

"During our entire conversation, "Commissioner Harvison did not pin-"point any location in the Province

"of Ontario, within municipalities or
"otherwise, where organized or syndicated
"crime did exist.

"On May the 31st, 1961, a conference
"was held in Toronto attended by police
"executives and officials of the
"Federal Bureau of Narcotics (U.S.A.),
"Immigration and Naturalization Service,
"members of the Royal Canadian Mounted
"Police which included Commissioner
"Harvison, United States Secret Service,
"United States Customs Officials,
"United States Internal Revenue Service
"and officials of the Metropolitan
"Toronto Police Department, along with
"myself and Assistant Commissioners
"Kennedy and Franks. During that
"conference it was agreed that some
"further studies should be given by
"the R.C.M.P. and Ontario Provincial
"Police to set up the mechanics of
"collecting and supplying information.

"I mention this particular
"conference having been held and the
"purpose for which it was called, in
"view of the fact that during my
"discussion with Commissioner Harvison,
"it was agreed that in the near future
"a meeting would be held in Ottawa

"between the Director of the Quebec "Provincial Police, the Chief Constable "of the City of Montreal, Chief "Constable Mackey of Metropolitan "Toronto, and myself, to further "discuss the distribution and exchange "information between large police "departments. If and when this "proposed meeting takes place, it "may be possible to obtain from "Commissioner Harvison some "clarification of his allegation, "of reference in his address to "organized or syndicated crime in "Canada.

"Attached please find copy of "Commissioner Harvison's address to "the Canadian Club in Toronto on "November 6, 1961."

THE COMMISSIONER: Exhibit 207.

---EXHIBIT NO. 207: Memorandum from Commissioner W.H. Clark to the Hon. A.K. Roberts, Q.C., Attorney General.

MR. WILSON: There is no attachment.

MR. MacKINNON: I wonder if we could have the attachment.

MR. WILSON: We will have it.

THE COMMISSIONER: As a matter of fact, I do not know whether it has been entered as an

exhibit?

MR. MacKINNON: No, it has not, and I would like to see it.

MR. EKEWIN: I would like to see it also.

MR. WILSON: We will have available copies of it.

THE WITNESS: I think it would be very good if counsel did read and digest the whole thing, because what has been said about that particular speech has been distorted; terribly distorted, I might say.

MR. WILSON: We will make available copies to them.

THE WITNESS: And then, sir, I would like to produce, and I am near the end of this now -- I am going to produce the letter I received around November the 9th from Commissioner Harvison's office; he had a conversation with me, and he referred to proceedings of the Parliamentary Committee on Capital and Corporal Punishment and Lotteries, and the statement of Commissioner Nicholson before that committee; and he was good enough to send me copies of the record of these proceedings, and I would like to put them on file.

THE COMMISSIONER: Let me see those please.

THE WITNESS: I have certain references that I would like to give as to the pages, and

let it go at that; and perhaps some one on your staff would digest them.

THE COMMISSIONER: Am I concerned with the study of capital punishment or corporal punishment?

A. No. The Committee would cover all these things. I picked out the spots that I would like read: A1, A2, B1 ---

Q. B2?

A. B2, B3, B9, B10, B11 ---

Q. It is beginning to sound like -- (the rest of the remark was lost in laughter)

A. B13, B14; C1, C2, C3, C6, C7, C8 and C9.

And also there is ---

MR. MacKINNON: Just a moment; what is the witness referring to? I should like to know that!

THE COMMISSIONER: He is referring to this document here, the Report of the Parliamentary Committee on Capital and Corporal Punishment and Lotteries.

If I looked at these pages, I will be shortening it up, to say that I hope I will be seeing something advantageous!

A. And there is the statement re lotteries, which Mr. Nicholson made before the Committee, dated the 24th of May, 1954, which is attached; and if I might produce this? It is not a long statement, but it does carefully

consider some of the real problems that the Commissioner found, and some of the things that he thought might have been done to improve this pretty vexatious problem, and the law relating to it.

I might read this. He said:

cc/3 "It would also be well, I "suggest, to define principles that "will permit the difference between "legal and illegal gambling to be "clearly distinguishable to the "public. These principles might "be:

"(a) That no public gambling is "allowed, unless the funds of the "debtors can be protected by "reasonable and practical means.

"(b) That no professional gamblers "or operators can participate, "except on a salary basis.

"If it is accepted, as I "think it must be, that a large "proportion of the people of this "country want to gamble in a "modest way, and will insist on "patronizing illegal games, if "legal ones are not available, then "I submit the aim should be to "provide controlled gambling

"facilities, and thus prevent exploitation
"of the gambling instinct of the public.
"At the same time, if the line of
"demarcation between legal and
"illegal gambling can be fixed at a
"point which is generally acceptable,
"then I am sure enforcement will be
"a great deal more effective and
"efficient than it is to-day."

THE COMMISSIONER: Attach that to 288.

---EXHIBIT NO. 288: Report of Committee on Capital and Corporal Punishment and Lotteries.

---EXHIBIT NO. 288-A: Excerpt of speech made by Commissioner Nicholson before the Committee.

THE WITNESS: That statement was made some eight years ago, and it has a present context, particularly as the law has not in the interval been changed.

Finally, I would like to refer to a portion of a broadcast made over CBC radio, Sunday, the 26th of November, 1961.

THE COMMISSIONER: By whom?

A. By Commissioner O.W. Wilson, head of the Chicago Police Force, made at 10.30 p.m. He was interviewed by Bill Batty, a feature writer of the Montreal Gazette; and I have had a copy made of the recording. We have page 2 and 3.

Here, you have the Commissioner talking about these problems, as he sees them in Chicago, and he attempts to get a definition of organized crime.

THE COMMISSIONER: Exhibit 289. What is the name of the Commissioner?

A. Commissioner O.W. Wilson.

Q. And what is his status? Commissioner of Police?

A. He is head of the Chicago Police Force, and has been from some time in 1960, I believe.

---EXHIBIT NO. 289: Transcript of broadcast by Commissioner O.W. Wilson, heard over CBC radio, on Sunday, 26th November, 1961.

THE WITNESS: And that, I think, Mr. Wilson, pretty well sums it up.

MR. WILSON: That is all for the moment. If there is anything further, I will re-examine on it.

It is now 4.00 o'clock, Mr. Commissioner.

MR. MacKINNON: Is Mr. Wilson not going to examine this witness further? At least, is that your examination?

MR. WILSON: That is it.

MR. MacKINNON: Then, I have to advise you, Mr.Commissioner, that because of Mr. Brewin's commitments in other places, I will let him go first.

MR. BREWIN: Shall I proceed?

THE COMMISSIONER: This is before the long week-end. I do not know whether we ought to rise now?

MR. BREWIN: I do not think it is likely that I would finish very quickly, at any rate.

THE COMMISSIONER: Very well. Tuesday morning, then.

MR. BREWIN: It is possible that I may not be able to be here then; in that event, other arrangements will be made, no doubt; but I will try to be here.

THE COMMISSIONER: Tuesday morning, 10.00 o'clock.

---Whereupon the hearing adjourned at 4.00 o'clock p.m., until Tuesday, October 9, 1962, at 10.00 o'clock a.m.

-- FILE COPY --

VOLUME NO. 60

ROYAL COMMISSION

ON CRIME

IN ONTARIO

DAILY TRANSCRIPT
OF PROCEEDINGS

Date..Tuesday.Oct.9/62.

pp 12032 -- 12208.

Supreme Court Reporters
145 Yonge St.
Toronto

VOLUME 60

INDEX TO WITNESSES

INDEX TO EXHIBITS

A/1/NG

TUESDAY, OCTOBER 9, 1962

---On resuming at 10:05 o'clock a.m.

A. KELSO ROBERTS, resumes the stand

EXAMINED BY MR. WILSON:

Q. In dealing on Friday with certain charges in the Leader of the Opposition's speech, Exhibit 3, you mentioned ones that you thought affected you directly and I understand that there is one matter in that connection that you overlooked mentioning on Friday.

A. I would like to refer to page 97 of the Leader of the Opposition's speech and I would read two sections of it:

"The Roseland Club at Windsor
"lost its Provincial charter
"on March 8th,1958 as a result
"of a court conviction two months
"before of two men, Curly Gardner
"and Leo Finnigan, on charges of
"keeping a common gaming house.
"Well, the hon.Attorney-General
"may say we finally got them. Mr.
"Speaker, that conviction was obtained
"despite the hon. Attorney-General,
"not because of him."

And I quote further:

[illegible]

—— [illegible] on June [illegible]

[illegible], present for duty

[illegible]

Q. In dealing on Friday with certain questions in the leader of the Opposition's speech, Section 3, you mentioned once that you thought affected you directly and I understand that there is one matter in that connection that you overlooked yesterday on Friday.

A. I would like to refer to page 97 of the leader of the Opposition's speech and I would read two sections of it:

"The Premier then on Thursday
"last the Provincial observer
"on March 8th, 1958 as a result
"of a court conviction two months
"before it was, forty years
"and Leo Flanigan, on charges of
"[illegible] a [illegible] [illegible],
"Well, the Hon. Attorney-General
"may say he finally got them. Mr.
"Speaker, that conviction was obtained
"despite the Hon. Attorney-General,
"not because of him."

And I quote further:

"The police evidence, Mr. Speaker,
"was dramatically revealed in court
"by the appearance of one Raymond
"Atwood of Detroit as a Crown witness.
"Mr. Atwood's brother Earl had been
"found murdered in Michigan a few
"weeks before after winning a very
"large amount of money at the Roseland
"Club. Earl Atwood was reported to
"be carrying $40,000 when slain.
"Raymond Atwood was prepared to
"testify about the Roseland Club's
"operation, but he never got the chance.
"The moment he appeared defence counsel
"asked for a recess and when the court
"resumed the accused changed their
"pleas from not guilty to guilty."

The underlying part, that sentence I just read which I quote--

"Raymond Atwood was prepared to
"testify about the Roseland Club's
"operation, but he never got the
"chance."

-- is entirely false. I now present to the Commission the evidence in this case and I show, sir, this evidence which maybe should be read into the record. In any event, I say the plea of not guilty was entertained by the magistrate. This man Atwood gave some 24 pages

"The police witness, Dr. Cymbler,
"was immediately revealed to start
"by the appearance of one Raymond
"Atwood of Detroit as a crack witness.
"Mr. Atwood's brother Earl had been
"found murdered in Michigan a few
"weeks before after winning a very
"large amount of money at this Roadhouse
"Club. Earl Atwood was reported to
"be carrying $40,000 when slain.
"Raymond Atwood was presented to
"testify about the Roadhouse Club's
"operation, but he never got the chance.
"The record is ambiguous between counsel
"asked for a recess and when the court
"resumed the terminal charges had
"given from not guilty to guilty."

[illegible] Mr. Atwood testimony I just read which I quote--

"Raymond Atwood was prepared to
"testify about the Roadhouse Club's
"operation, but he never got the
"chance."

-- is entirely false. I now proceed to the
Commission the evidence in this case and I
[illegible] this evidence which were [illegible] to
read into the record. In any event, I say
the plea of not guilty was substantiated by the
testimony. This man Atwood gave some 26 pages

of testimony and at the end of his complete testimony, after the man's testimony was brought out in that way, there was an adjournment and counsel for the accused came in after the adjournment and changed the plea from not guilty to guilty.

THE COMMISSIONER: Did you want to file that?

A. I will file that.

MR. WILSON: In Exhibit 136, which is the report of Inspector Hatch ---

THE COMMISSIONER: Just a minute. That is Exhibit 290.

---EXHIBIT NO. 290: Transcript of evidence of Raymond Atwood.

THE WITNESS: I think, sir ---

THECOMMISSIONER: Just a moment. Yes?

THE WITNESS: I think, sir, it can be said on reading of this evidence, the complete story of the operation of a common gaming house was given by Atwood, who was present and gave the evidence as a witness. Raymond Atwood -- actually an appeal was taken against sentence, that the sentence was excessive under all the circumstances and that the learned magistrate failed to take into account the mitigating circumstances and that he erred in sentencing the accused to twelve months in prison.

of housing and at the end of his complete testimony, after the Commissioner had instructed him to that effect, found that he informed the counsel for the accused come in after the adjournment and examine the plan from the public in public.

THE COMMISSIONER: Did you want to file that?

A. I will file that.

Mr. Gilmour: In Exhibit 124, which is the report of Inspector Shiles ——

THE COMMISSIONER: Just a minute. Time is limited now.

——Question not ready: Examination of witness by Raymond Ahwood.

THE COMMISSIONER: I think, sir ——

MR. GILMOUR: Just a moment. That was an reading of this evidence, the complete story of the operation of a common gaming house was given by Ahwood, who was present and gave the evidence as a witness. Raymond Ahwood —— actually he signed the video against Detective Sam the detective who accompanied Sam. All the statements and that the Internal negligence failed to take into account the motivation ——

THE COMMISSIONER: ——

the request to twelve months in prison.

That appeal was dismissed by the Court of Appeal.

MR. WILSON: Mr. Commissioner, it is quite true that the statement of Mr. Wintermeyer is inaccurate. We already have on record by Exhibit 136, which is the report of Inspector Hatch dated February 1st, 1958, the fact, and I quote in paragraph 3:

"After being sworn, Atwood described "the club, the manner in which they "operated and then pointed out Leo "Finnegan and Frank Gardner as the "bosses of the club. He also "identified Amodeo as the car-parking "attendant. Raymond Atwood was not "cross-examined by the defence counsel "but Mr. Arthur Martin requested the "magistrate to grant a recess as the "evidence of the witness came as a "great surprise and they wished to "consult with their clients."

So that we have had that.

THE COMMISSIONER: I remember that.

MR. WILSON: Q. Yes. Now, was there any other matter that was not covered on Friday?

A. Perhaps the other gentlemen here may think there was. As far as I know, I have now given my evidence in chief.

Q. Fine.

Time appeal was dismissed by the Court of Appeal.

Mr. VIANNI: Mr. Commissioner, it is quite true that the statement of Mr. Hartenberger is inconsistent. He already been on record by August 12th, that is the Friday of Juryville Seven dated Thursday July, 1990, the fact, and I quote an paragraph 3:

"After being recent Ahmed Aberfield "the claim, the manner in which they "approached and then painted out the "Chemical and Press Gardens as the "owner of the plot. In this "identification Amedee as the car-parking "attendant. Ahmed Ahmed was not "cross-examined by the defence counsel "but Mr. Arthur Martin requested the "magistrate to grant a reprieve as the "evidence of the witness came as a "great surprise and they wished to "consult with their client."

So that we have had that.

MR. COMMISSIONER: I remember that.

MR. MILLER: Q. Yes. Now, was there any other matter that his had brought to mind?

A. Because the other witness may think there was. As far as I know. I have now given my evidence in chief.

Q. Time.

A/2

EXAMINED BY MR. BREWIN:

Q. Mr. Roberts, I would like to deal first of all with the matter of Magistrate Thompson.

A. Yes.

Q. I don't think you need your book.

A. I don't need my book. I just need the evidence of Thompson in front of me.

Q. I was going to call your attention to that. First, would you not agree with me that Magistrate Thompson is a very highly respected magistrate of this Province?

A. I don't think I am called upon to give any credit or any testimonial about anybody at the moment one way or the other.

Q. I am asking you.

A. I am not going to. I don't think I am called upon to do so.

Q. I think you are called on to answer the question.

THE COMMISSIONER: Just a moment. Let us assume he is.

MR. BREWIN: Q. Yes. Then surely you can tell me whether ---

A. The Commissioner said, "Let us assume he is". I am not making any further statement.

THE COMMISSIONER: Wait until the question is asked.

Q. Mr. Roberts, I would like to deal first of all with the matter of Magistrate Thompson.

A. Yes.

Q. I don't think you need your book.

A. I don't need my book. I just used the evidence of Thompson in front of me.

Q. I was going to call your attention to that. First, would you not agree with me that Magistrate Thompson is a very highly respected magistrate of this Province?

A. I don't think I am called upon to give my credit to any testimonial about anybody at the moment one way or the other.

Q. I am asking you.

A. I am not going to. I don't think I am called upon to do so.

Q. I think you are called on to answer the question.

THE COMMISSIONER: Just a moment. Let us assume he is.

MR. MACKAY: Q. Yes. Then surely you can tell me whether ---

A. The Commissioner said, "Let us assume he is". I am not making any further statement.

THE COMMISSIONER: Only until the question is asked.

MR. BREWIN: Q. The question is whether or not, in the knowledge of this witness, Magistrate Thompson is not a highly respected magistrate.

THE COMMISSIONER: I say let us assume he is. On that assumption, go on.

MR. BREWIN: May I not ask the witness whether that is his assumption?

THE COMMISSIONER: I think it is pertinent. The witness doesn't want to answer it. There is no reason why you can't answer that, is there?

THE WITNESS: I would have to make some qualifications and I don't want to do that. It is not pertinent surely to the hearing.

THE COMMISSIONER: Q. I don't know what Mr. Brewin is leading up to. He is regarded favourably, isn't he?

A. I would certainly --

Q. Do you know?

A. I would put it this way, that I haven't had too many complaints about him.

MR. BREWIN: Q. That is the best way you will put it. If I put it to you that in the profession of which you are the titular head, he is highly regarded, you can't say that that is -- either agree or disagree with that?

A. If you want to put it that way, all right.

Q. You put it that way.

MR. MORRIS: Q. The question is whether or not, in the knowledge of this witness, Magistrate Thompson is not a highly reputable magistrate.

THE CHAIRMAN: I may let us assume he is. On that assumption, go on.

MR. MORRIS: May I not ask the witness whether that is his assumption?

THE CHAIRMAN: I think it is perfectly. The witness doesn't need to answer it. There is no reason why you can't answer that. It doesn't qualifications and I don't want to do that. It is not pertinent merely to the hearing.

THE CHAIRMAN: Q. I don't know what Q. Does it lessen or no. He is regarded favourably, isn't he?

A. I would certainly —

Q. Do you know?

A. I would put it this way, that I haven't had too many complaints about him.

MR. MORRIS: Q. What is the best way you will put it. If I put it to you that in the prosecution of which you are the Crown head, he is highly regarded, you can't say that is — either agree or disagree with that?

A. If you want to put it that way, all right.

Q. You put it that way.

A. You did.

THE COMMISSIONER: Q. Have you had any complaints about him?

A. Yes, there have been some complaints.

Q. I suppose there are complaints about all the magistrates from time to time?

A. You can go beyond magistrates, sir.

Q. Even judges?

A. Even judges. Not in the instant case, I may say.

Q. I am not immune.

MR. BREWIN: Q. Then, Mr. Roberts, did you regard it as very shocking when it was reported to you -- it would depend on the facts -- but shocking that one of your colleagues was alleged to have interfered with the administration of justice?

A. I think I explained in my evidence in chief the circumstances surrounding the attendance of Magistrate Thompson in my office. I am going to answer this. As I say, Magistrate Thompson in his own testimony said before this Commission at page 4675 and 4676, the bottom of 4675, in the question:

"Q. Did the Attorney-General "ask you whether it was possible "this was someone on the phone who

A. Yes sir.

THE CONSTABLE: Q. Have you had any [illegible] with him?

A. Yes, there have been some [illegible].

Q. I suppose they are [illegible] [illegible] the magistrate from time to time?

A. Yes sir or [illegible].

[illegible]:

Q. Who [illegible]?

A. Even judges. Not in this instance, I may say.

Q. I am not [illegible].

MR. DUNNING: Q. Then, Mr. Roberts, did you regard it as very shocking when it was reported to you — it would depend on the facts — but shocking that one of your colleagues was alleged to have interfered with the administration of justice?

A. I think I contributed in my evidence in making the circumstances surrounding the attendance of magistrate Sampson to my office. I am going to answer this. As I say, magistrate Sampson in his own [illegible] THE CONSTABLE [illegible] and 4076, the [illegible] of 4075, in the questions

Q. Did the Attorney-General

Ask you whether it was possible

[illegible]

"was saying they were Mr.Maloney
"and, in fact, it was not Mr.
"Maloney?
"A. Yes, the Attorney-General,
"with great respect to him, cross-
"examined me very severely, suggesting,
"first, it may very well have been
"someone else, and I agreed it was
"a possibility."

Q. A possibility?

A. Yes.

Q. Now, Mr. Roberts, I think I am going to try to get you to answer my question. If you will answer now my question to you whether the allegation - it was only perhaps an allegation - that one of your colleagues, as a Minister of the Crown, was interfering with the administration of justice was shocking to you?

A. Any statement of interference with the administration of justice would certainly be shocking to me.

Q. And particularly, positive evidence that the source was a Minister of the Crown?

A. If I had any evidence of a positive nature that would follow and justify such a situation, of course.

Q. You know ---

A. I think myself that another person

"Was anything else done to him?"

"Well, he died, he was sick too."

"Sick?"

A. Yes, the Attorney-General, "with great respect to him, arrangement on very serious, suggestion "Look, if you will have been "someone else, and I agreed it was "a possibility."

Q. A possibility?

A. Yes.

Q. Now, Mr. Beverly, I have I am going to ask you to give me answer my question. If you will answer yes or question to you another the allegation - it was only possible an allegation - that one of your colleagues, as a Minister of the Crown, was interfering with the administration of justice was according to you?

A. The attempt of Lazarovitch was the administration of justice with partiality as directed to me.

Q. And particularly, positive intention that the Minister was a Minister of the Crown?

A. If I had any evidence of a positive motive that would rather basic from a allegation, of course.

Q. You know ---

A. I other myself that another person

would institute the proper investigation. But let me tell you, nothing could be more futile than to expect the Attorney-General, on some statement of that sort, to institute by himself such an investigation. It would defeat the very purpose of the whole thing if he was to do such a thing.

Q. Perhaps it might be futile for this Attorney-General, but why would it be futile for the Attorney-General in charge of the administration of justice to make a prompt inquiry into this matter?

A. It would be futile for him himself to do it is what I said. I didn't say anything about if a magistrate who at that time had had four years almost on the Bench, as I said on Friday, had wished to take the matter into his own hands. If he really believed it was Maloney, he could have put in motion the type of investigation that would have ascertained far more readily and accurately than I could hope myself to do by my questioning of anybody. That is obvious, it seems to me.

A/3

Q. You are saying ---

A. I might have defeated the whole picture had I intervened personally and started personal questioning on my own.

Q. You are saying that as Attorney General of this province, when it is reported

would institute the proper investigations. And let me tell you, nothing could be more fitting than to expect the Attorney-General, on some evidence of that sort, to institute an immediate and an investigation. It would defeat the very purpose of the whole thing if he was to do such a thing.

Q. Perhaps it might be fitting for the Attorney-General, but why would it be fitting for the Premier-General to convey or use confidentiality of politics to make a prima facie case?

A. It would be fitting for him himself to do it as what I said. I didn't say anything about if a magistrate was asked time and two four years almost on the Bench, as I said on Friday, had wished to take the matter into his own hands. If he merely followed in the history, he could have put in motion the type of investigation that would have ascertained the facts exactly and accurately than I could have myself to do by my questioning of anybody. That is obvious, it seems to me.

Q. The new Ruling —

A. I might have lectured the Bench please but I interviewed personally the Premier personal qualities on my own.

Q. You are saying that an Attorney General of this province, when is his relative

to you a colleague of yours has tried to interfere with the administration of justice, you leave it to the magistrate and do nothing yourself?

A. I didn't say that at all. I stated in effect the result of the discussion with Thompson at that time and he himself said he hadn't come to me. I think he did. He said he was brought in to me by Mr. Common and when he did come, he wanted to know what he should do and the thing he should do at that particular time was to do his duty and dispose of this case. He was told by both Mr. Common and myself to do just that.

Q. You did know, I suppose -- you apparently got Mr. Thompson's evidence. I refer you to page 4681 where this question was put to him:

"Q. --- I suggest to you, Mr. "Thompson, that there was no doubt "in your mind that that was the "voice of Jim Maloney?

"A. None whatever."

There wasn't any doubt, was there, in Mr. Thompson's mind? He said ---

A. As far as his conversation with me and with Mr.Common, there was doubt. He himself said so.

Q. Who put the doubt in his mind? You cross-examined him.

A. I attempted to ascertain what he came for. I asked him his knowledge, which I do with anybody who comes into my office.

Q. You conducted a severe cross-examination? That is the way he mentioned it.

A. I don't agree with that. Some of you people seem to think I am severe.

Q. You are the one, I think, who suggested to him that Mr. Maloney might have been drunk at the time?

A. In answer to that, I say this. I think the health situation of Mr. James Maloney in a general way is known to you. It is known to me. I don't think we should, in the situation of a man who is dead, trot that out here publicly. If that is relevant, then I suggest, Mr. Commissioner, that you hold a hearing in camera and then have the medical advisors and the people who know exactly what the condition of this man was over aperiod of time, particularly in 1959 at the relevant time of this discussion.

Q. Mr. Roberts, are you going to answer my questions instead of making speeches? I put this to you. Did you or did you not suggest that Mr. Maloney might have been drunk at the time? Perhaps you could answer

that "yes" or "no"?

A. I am going to wait to see whether this should be.

THE COMMISSIONER: Answer it "yes" or "no".

A. I may well have said to him -- it was common knowledge -- I may have said to him he might well have been drunk. I might have said that.

MR. BREWIN: Q. And did Magistrate Thompson point out to you this was 9.00 o'clock in the morning he received this call?

A. Again I haven't detailed recollection of what the hour was, but if he said it was 9.00 o'clock in the morning, that might be so, but in the event of a person being ---

THE COMMISSIONER: Just answer the question.

THE WITNESS: I am speaking with some hesitation about the hour because I don't recall it in detail. But if he says it was 9.00 o'clock, I wouldn't dispute that.

MR. BREWIN: Q. And it was some four months later that you spoke to Mr. Maloney about it?

A. I would say about that.

Q. Are you suggesting you couldn't have got in touch with him much quicker?

A. I am not suggesting anything. I

didn't succeed. The judgment, according to the records supplied to me in that particular case, was given on the 4th of May, 1959. I know the attendance of Mr. Thompson in my office was just a matter of a few days prior to him delivering that judgment, a short time prior to the delivering of that judgment. I also know as a matter of fact that the writ of election for the 1959 provincial election was issued on the 4th of May, 1959. I said that not having succeeded at the time in getting in communication, the election intervened, and after the election -- this is purely routine -- after the election, the 11th of June, I didn't see him personally during the month of June. I left for the Maritimes. I was away until August. I didn't, to my recollection, see him in August and it was into the fall before I did get in touch with him in the manner I mentioned in my evidence. But I can assure you I wasn't running around with that uppermost in my mind during that period.

Q. It didn't seem to have been very much in your mind, was it?

A. No, it wasn't very much in my mind.

Q. You didn't take the thing too seriously?

A. As I said before, the magistrate himself wasn't certain and if the person himself is not certain about the situation when he is talking to me, I am not going to get too concerned. We know a telephone call could come from a dozen and one people.

Q. Had there been interference by Mr. Maloney in your department before, to your knowledge?

A. On the question of interference, I don't know that I would call it interference.

THE COMMISSIONER: In connection with what?

MR. BREWIN: In connection with the administration of justice.

THE WITNESS: I would say this of Mr. Maloney. He was elected in January, 1956, as a Member. He was chosen as a Minister and sworn in on the 22nd of December, 1958. He did some business as Minister of Mines. If he was acting for a client, he might have said in conversation with some department official in connection with some particular thing, but I would say he has never, to my knowledge, deliberately did anything with respect to -- directly to myself -- that I would put in the category you just mentioned.

Q. Well, Mr. Thompson then didn't report to you that Mr. Maloney had been in

the hair of the department, or words to that effect?

A. No, he certainly did not report to me that. He never reported that to me. I don't know where he reported it.

Q. I said Thompson. I am sorry. I meant to say Mr. Common.

A. Mr. Common?

Q. Did he not report to you ---

A. No, Mr. Common never reported to me. I would think it came up a few weeks ago that any such statement as that had been attributed to him. But I imagine you have discussed this and had the evidence of Mr. Common on it.

A/4

Q. The statement of Magistrate Thompson in the evidence at page 4693 was -- my impression was that he was referring back to Mr. Maloney, that he was interfering a great deal with the Attorney General's Department?

A. I don't know where he would get that information.

Q. You don't know where he would get that impression? You know of no basis for that impression at all?

A. I have given you my answer a moment ago.

Q. Now, Mr. Roberts, I would like to

come on to the matter of the charters that were issued to these three gambling operations.

A. Yes.

Q. I don't perhaps need to recount which ones. We are all familiar with them. I think it was on July 5th or thereabouts of 1957.

A. Actually on the 18th of July was the day on which the charters passed, I think.

Q. I think they are issued, dated back to an earlier date?

A. That is very common practice, as you know.

Q. That is, that you took and take full responsibility for the issue of these charters?

A. I said so.

Q. I want to study it a little bit. Mr. Herman told us, in fact, it was his idea -- I beg your pardon, your idea or suggestion?

A. I would certainly hope it was my idea. It wasn't his idea.

Q. I meant to say it was your idea. Is that correct?

A. I gave the history on Friday of the lead-up to this.

Q. Just answer the question to-day.

A. Let me answer about the charters. I gave the background of them. I said when we arrived at the point we arrived at in June, 1957, thatwith the background of that information that is on the record, I certainly welcomed the opportunity of getting the switch from federal charters to Ontario charters.

Q. You have repeated what you said:

A. Of course I have.

Q. Will you answer my question directly? Was it or was it not your suggestion? I don't want you to make a speech.

A. Of course, I saw some advantage in the obtaining of a switch to federal charter system to provincial charter system.

Q. I am going to get an answer. I don't care what you, sir ---

THE COMMISSIONER: You will get answers. Don't blow the roof off the building.

MR. BREWIN: I intend to try to get the answer.

THE COMMISSIONER: You will get the answer.

Q. It was your idea, was it not?

A. Yes, sir. I was only too anxious to do this.

Q. You told us last week?

A. Yes.

Q. It was your idea?

A. Certainly it was my idea.

Q. You take full responsibility for it?

A. I said I did, and I say it again now.

MR. BREWIN: Very well. I don't know why we take so long to get to it.

THE WITNESS: Apparently you couldn't understand the testimony Friday.

THE COMMISSIONER: Never mind that.

MR. BREWIN: I think I understand ---

THE COMMISSIONER: All right, Mr. Brewin, what is your next question?

MR. BREWIN: Q. My next question is that the issue of these charters at your direction, if I may put it that way, was rather unusual and unique?

A. Let us get the record straight. I don't issue charters, they are issued by the Provincial Secretary who is a Minister as myself.

Q. We have been told by Mr. Cudney and others that you made a decision and said the charters were to be issued?

A. I recommended them, yes.

Q. You initiated the whole thing, didn't you?

A. That is correct.

Q. And this was most unusual, I put it to you?

A. You are dealing with a most unusual situation.

THE COMMISSIONER: Q. Then if he said that, I suppose your answer is "yes"?

A. Yes.

MR. BREWIN: Q. It was unique. You never did it before or since, I take it?

A. The sense of it in this particular case has already been illustrated. At the moment there is no particular need to meet such a situation as that that I know of.

Q. I am going to discuss the sense of it later. You don't need to make a speech all the time, Mr. Roberts. Have you ever, before or since, intervened with the Provincial Secretary's Department and required or initiated the issue of a charter except in this case?

A. I think the answer to that would be no.

Q. No. And it is ---

A. I don't recall any.

Q. It is not the usual procedure at all, is it?

THE COMMISSIONER: He said that, that this was unusual.

MR. BREWIN: Q. Now, I suppose it is

obvious -- again we have been told this before -- you didn't get any of the police reports that would be normal?

A. It is quite apparent that these clubs were suspect. The federal clubs were suspect. The people in the federal clubs were suspect and a switch-over definitely would be suspect. If the police had been asked to do anything, I would have expected them to say it was unusual. As a matter of fact, they did make reports in relation to the three directors of each of the three clubs.

Q. Did you see that report?

A. Yes. That is on the record.

Q. It is on the record, but I am asking you if you saw it. Did you see it?

A. Of course I saw it. I have been aware of what went on the record.

Q. Did you ---

A. I think I was in the room at the time it was brought in so I heard it if I didn't see it.

Q. At the time you issued the charters, did you see the report?

A. At that point, this was in the hands of my assistants in the office with the Provincial Secretary's office.

THE COMMISSIONER: What exhibit is that?

THE WITNESS: I don't know that I actually saw the document but I have been aware of what was going on.

MR. BREWIN: Q. Do you not think it rather strange to be issuing charters to a group of people that included one Henry Damore, personally known by me to be a gambler, and Felix Borelli, a known gambler and bawdy house operator from Niagara Falls?

A. I have made it abundantly clear when this switch-over was undertaken — surely it is as plain as it can be. Anybody with any common sense can understand why a switch of this sort that would continue to be suspect if it wasn't suspect before. But we got them out from under the protection of the federal charter into the much less protected area of the provincial charter.

Q. For the moment I am interested in your reaction to the idea of issuing a charter to some one who was said to be a well known gambler and bawdy house operator.

A/5 A. They already had their charter and they were -- nobody on the police force was able, apparently, to get rid of them with that charter. I gave the history on Friday. I stand by it and I say as the Conservative Attorney General of the day, I

did what I thought was the proper thing to do and if some other Attorney General of some other Party thought differently, would have thought differently, it would be up to him. I made my decision in what I believed was the best interest of the public at the time.

Q. I put it to you that your theory, Mr. Roberts, was that somehow or other Mr. Herman's undertaking that they would behave and discontinue their evil ways would be carried out?

A. Not necessarily. What I did know was that we had a weapon from then on and we could get these people if they wouldn't behave themselves.

Q. The weapon was that you could cancel the charter?

A. Cancel for evidence and for cause.

Q. Will you kindly indicate why you made a simultaneous arrangement with Mr. Herman then that these clubs were not to be raided except on complaint?

A. I didn't make any such arrangement at all. What I did do was what I would think anybody with a decent sense of fair play would do. That is, you wouldn't get an arrangement of this sort to-day and to-morrow jump on top of them without giving

them some kind of chance to behave themselves and carry on their business legally and not illegally.

Q. You say you didn't do anything of the sort. I will read what Mr. Herman has ---

A. Read the two statements that went out by Mr. Common. That is relevant matter.

Q. I will read you what I choose to read you. Exhibit 178-Z is a letter dated September 12th, 1957, from Mr. Herman to Mr. Common, and this statement is made:

"You will remember that . . ."

You are listening to this?

A. Yes, I am listening to you. I don't have to look at you all the time.

Q. I see you are reading over some notes. I prefer that you listen to the question.

A. Go ahead.

Q. Perhaps you will answer this then:

"You will remember that, when "arrangements were made with the "Attorney General on behalf of my "client, two units of the Army, Navy "and Air Force Veterans in Canada "as well as the Canadian Merchant "Navy Veterans Association to place

"themselves under provincial jurisdiction
"and operate their clubrooms under
"Ontario charters, it was understood
"that the Provincial Police would
"cease picketing, harassing and
"annoying our clients and would
"instead act only on complaints
"received."

Was that arrangement made or not?

A. The arrangement that was made is outlined in the memorandum of Mr. Common to myself of July 12th, 1957, and carried into operation by the memorandum of Sergeant Anderson to Commissioner McNeill. Was it 280? Just in order that we get the record clear, I would like to read it.

Q. Will you direct the witness to answer my question?

THE COMMISSIONER: Just a moment. You are referring to some exhibits. I am confused as to the exhibits.

THE WITNESS: I have a copy here.

MR. WILSON: Which one are you reading?

THE WITNESS: I am reading the memorandum from Mr. Common to myself and attached to it -- that one is dated July 12th, 1957, and attached to it is Anderson to McNeill memorandum of July 15th.

MR. WILSON: That was filed a few days ago -- I

don't have that either -- Thursday or Friday.

THE COMMISSIONER: Let me see 284.

MR. WILSON: I think 284 is it.

THE COMMISSIONER: Q. Is that what you are talking about?

A. Yes, sir, and attached to it, which apparently isn't here, is this July 15th memorandum.

MR. WILSON: The attachment, I think, is Exhibit 12, Mr. Commissioner.

THE WITNESS: Now, I would point out ---

THE COMMISSIONER: Just a moment. Now that we have that straightened out, proceed slowly. Now, Mr. Brewin, put your question.

MR. BREWIN: I will come back to my question and ask -- perhaps it won't be necessary to ask him to answer my question.

THE COMMISSIONER: Read the question.

MR. BREWIN: Q. The question is -- I am dealing with the first paragraph of Exhibit 178-Z, a letter from Mr. Herman to Mr. Common, of September 12th. It says:

"You will remember that,
"when arrangements were made with
"the Attorney General on behalf of
"my clients, two units of the
"Army, Navy and Air Force Veterans
"in Canada as well as the Canadian
"Merchant Navy Veterans Association

"to place themselves under provincial
"jurisdiction and operate their
"clubrooms under Ontario charters,
"it was understood that the
"Provincial Police would cease
"picketing, harassing and annoying
"our clients and would instead
"act only on complaints received."

My question is, was that arrangement made or not?

A. That arrangement was not made in the way in which it is stated there. The arrangement or instructions that were given, which is what we were going to do -- there wouldn't be any such thing as binding arrangements. The instructions which we gave are set out in the memorandum from Mr. Common to myself, and in particular in these words:

"The Provincial Police will no longer
"continuously park outside the
"premises and will not take the
"names of those who enter but they
"will maintain observation by way
"of periodic patrol and will make
"raids when evidence is available
"which would justify the same."

Q. Are you saying, Mr. Roberts, that Mr. Common has mis-stated the situation?

A. I am saying what were the instructions that were given as conveyed in that memorandum.

Q. Please direct your mind directly to this statement of Mr. Common.

A. I say to the extent that he may be incorrect in his own desires and wishes, they had no bearing on me, and they didn't give the correct situation. The correct situation is, and what actual instructions were actually given are as set out in that memorandum I just read from Mr. Common to me and that is based on the rule of law.

Q. In Exhibit 178-AA, which is a further letter from Mr. Herman to Mr. Common, September 23rd, I will read this paragraph to you and perhaps your answer is the same:

"When these two clubs were "incorporated under provincial laws "as a voluntary act of the members "of the club, it was understood "that the purposeof such incor- "poration was to place each club "under provincial jurisdiction so "that there would be no reason or "excuse for picketing, harassing "and annoying this club and so that "your department and the Deputy

A/6

"Provincial Secretary would have the right
"to hold an investigation and cancel
"the charter if any complaints were
"received."

(Page 12060 follows)

s/WJR/1

Q. Is that the understanding?

A. No, that isn't the understanding. There wasn't any understanding. As I said before, the course of action as indicated in the memorandum of Mr. Common, and we met the situations as they came up; and the police did the same.

Q. This complaint that comes from Herman on behalf of his clients,that they are over-reaching themselves ---

A. There never was any arrangement as to how we were to conduct our course of action as authorities of the Crown. There never has been and never will be.

Q. Mr. Herman is a very well known lawyer?

A. Yes, he is.

Q. And also a prominent member of your own party; so at that time it is a fact that this witness's statement, a few weeks after this interview, is inaccurate and his memory is not right?

A. It is inaccurate and once more I am rather pleased he was in a position to make that decision at that time because it showed real police action was going on in a proper manner. There was no question of complaint of abandoning the charter.

Q. I think Sergeant Anderson got the wrong impression from Mr. Common when he

understood at this stage these clubs were being given a chance? Thos were his words.

A. I suppose that might have been the practical, common sense approach to the thing. If they were going to behave themselves, what else could be done; give them a fair chance that they actually were behaving themselves.

Q. Were you so naive as to believe they would behave themselves?

A. Well, I think that if they were behaving themselves they should be given a fair chance.

Q. I don't think I have the confidence in well known gamblers that you seem to have.

THE COMMISSIONER: Well, is that helping me? If you think it is, I will tell you it is not.

MR. BREWIN: Q. I would just point out that in this letter of July 15th, 1957, from Anderson to McNeill, Anderson lays out the position as he sees it here:

B/2

(reads letter)

A. It was his interpretation of his statement to him in this memorandum, and I think it is a reasonable interpretation.

Q. In your statement to the press of July 18, 1957, which you have brought to our attention: You used the expression:

" To clubs carry on -- (reading to
" words -- effective).

(page 12063 follows

That is your idea?

A. That's right.

Q. What sort of speed and effective discipline were you referring to?

A. I gave you the details.

Q. You are taking the credit for closing down these clubs?

A. I certainly am, some of the credit.

Q. Had you anything to do with the closing of the Cooksville?

A. As a matter of fact, the police and ourselves and the Provincial Secretary's Department had a lot to do with the part that had to do with the application to the Provincial Secretary, and we were asked for advice on what seemed to be some crimes at that time. There was very excellent work done by the police in many respects and this was as a result of direction of senior people including consultations with the top men in my Department, and occasionally consultations between Mr. Common and myself.

Q. I put it to you that the cancellation of the charter did not close down the Cooksville Club?

A. The cancellation, as far as the charter was concerned, was on the

3rd of June; recommended on the 30th of May, 1958, as a result of -- I am sorry, May, 1960, and the date of the cancellation was within two or three days of the date of the arrest of Wright. The investigation with respect to the cancellation had been proceeding through the winter months and into the spring.

Q. So that this Cooksville club had been in operation on the date of the charter, under the charter, from July, 1957, to the 1st of June, 1960?

A. Yes, that was the date.

Q. It is a fact?

A. It is a fact, yes.

Q. Did that seem to you like speedy and effective action?

A. I consider it was as effective and speedy and as essential, in relation to the public interest into investigations proceeding at the time, as was in the honest opinion of myself and others associated with me, so to do.

Q. Did you receive the police reports that Sergeant Anderson has told us of, that there was no change in the operation of these clubs whatever after the charter was issued? Did you receive those reports?

A. No, I didn't see them personally, no.

Q. Did you know of them?

A. I don't think I knew of those particularly at the time. As a matter of fact, I thought that the police were carrying out raids and doing the things they ought to be doing.

Q. I put it to you, and on your own theory, in July of 1957 you caused charters to be issued to these clubs in order to deal effectively with their legal activities, and I ask you whether you know that they consistently carried on the same activities for this same period of three years?

A. I don't know that ---

Q. I think Sergeant Anderson told us of that?

A. Sergeant Anderson, in order to make that effective, would have to tell it to a court and a court would have to render a conviction.

Q. Looking at these safeguards to be put in under this charter, first of all, one of these items in the charter, and I am referring to the charter of the Frontier Veterans Association -- I think they all contain the same provisions, do they?

A. That's in Bertie Township.

Q. Perhaps I had better look at the

Cooksville Club.

A. I don't think there's any change. I think that is a standard provision.

Q. These are the provisions that you thought would enable you to help police these activities?

A. Not thought, but certainly did; patrol then if they were breaking the law, and if they were not breaking the law they could carry on as any other club.

Q. One of the provisions was:

"That the Corpiration is prohited from "occupying and using a house, room "or place as a club which, except for "the provisions of paragraph (a) of "subsection (2) of section 168 of the "Criminal Code (Canada), would be a "common gaming house within the meaning "of paragraph (d) of subsection (1) "of section 168."

(page 12067 follows)

It provides that it may be cancelled if it is so used. Didn't it continue to be so used as a club consistently to your knowledge?

A. I couldn't say personally except from the records on file here.

Q. You had reports being made to you frequently?

A. Not very frequently and not to me personally.

Q. These were the main thorns in the flesh of the Anti-Gambling Squad, those very clubs, weren't they?

THE COMMISSIONER: Let us assume that they were.

MR. BREWIN: Q. Now, what steps, Mr. Roberts, did you take to find out whether or not, after these charters were issued, they had ceased to carry on a gaming house as described in the Criminal Code? You are the one who required or issued these charters, what steps did you take to see that the conditions were carried out?

A. I wouldn't take steps at all, myself, that would be a matter for the police.

Q. Well ---

A. They could pass your house once a month, and ---

Q. You haven't given me a charter

to operate a common gaming house.

A. I don't know myself, or any other Attorney General, but we do not go out and carry on investigations and persecutions of individuals. We wait until there comes to us charges in the proper manner, and evidence in the proper manner.

Q. Of course, you are going to have to operate through the police, but did you take any steps through your staff to find out whether the condition that you imposed was being carried out? This condition?

A. Well, of course, personally I didn't. I wouldn't go out and become an investigator. The police carry out their work and I think I have outlined that last Friday night.

Q. I want to know whether you took any steps, effective or otherwise, through the staff available to you, as the Attorney General of this province, to see whether this condition was carried out or not?

A. I left it to the proper officials to do their job. I don't start out on investigations on my own.

Q. That is the answer?

A. I sometimes think that people think that I am an IBM machine.

Q. Another condition was:

"and if it is made to appear to the "satisfactory of the Provincial Secretary "that the Corporation purports so to use a "house, room or place, these Letters Patent "may be cancelled by and in the discretion "of the Lieutenant-Governor;"

Did you cause any enquiries to be made as to whether the premises complied with this condition -- any of these clubs?

THE COMMISSIONER: Q. I suppose the answer is you left it to the police?

A. Of course I did.

MR. BREWIN: Q. Did you take any initiative, yourself?

A. I didn't. I'm not an investigator. I am informed, as Attorney General, from the material brought to me by the people paid to do those jobs. I don't think any Attorney General would do it.

Q. Mr. Roberts, I suggest to you, and we can distinguish between you personally and what you caused to be done, what I am trying to get from you is that you had taken a very personal and special initiative in causing these charters to be issued, and laid down certain conditions. Having done

that, having had these charters issued to the gamblers, you, through sources available to you, did you take any special interest to find out whether the conditions were being complied with or not?

A. I am very satisfied on the record as towhat took place.

Q. Did you initiate any proceedings?

A. I wouldn't say I initiated, but I said if matters came to me such as the question of the police officer being involved in a conspiracy, and therefore we were very active and anxious to do everything possible to deal with the matter in that way. When enquiries were made by the Commissioner of the Ontario Provincial Police in September, October, November, of 1959, about the fact that this Centre Road Club was not living up to the requirements of the charter both with respect tothe bolting and the holding out of people, and also with respect to the way it was being operated ---

Q. You co-operated with Chief McGill?

A. I said we co-operated to get the matter brought before the Deputy Provincial Secretary.

Q. Before the matter was brought to the attention of Mr. Frost, I think it was, regarding the operations of this club by

Chief McGill, did you cause any enquiry to be made?

A. Well, I don't say I caused it but Commissioner Clark made some enquiries in September. It is in Mr. Clark's communication which I referred to on Friday.

Q. I think that is part of Exhibit 41. I think my question was we had evidence that Chief Constable McGill wrote to Mr. Frost and asked that action be taken, and I was asking whether any previous action had been taken by you.

A. I think this exhibit outlines the position. The Commissioner raised the point and had the thought that there were certain things going on in the Cooksville club that merited cancellation of the charter.

Q. Was any action taken?

A. That began a series -- Mr. McGill came into the picture and in September, I think it was, Miss Hunter wrote an outline to McGill re ways and means of getting the situation cleared up that would lead to the cancellation; and a raid took place on the 10th of October, 1959, following that discussion; and then subsequent to that Mr. McGill wrote me a long and somewhat inaccurate memo to take advantage of the

provisions of the Ontario charter, to cancel the charter, and that was going along jointly with the Ontario Provincial Police and Medill's effort; and that was moving along. It hardly really got going when the Wright situation broke at the police level, and I notice that some people accuse us of getting off the investigation too soon -- I have explained that -- but the effect of the matter is to get evidence on an operation of this club; they were working on it and ultimately the charter was cancelled, or practically so, at the time of the arrest of Wright.

Q. Was the Veterans Club closed down by reason of the action of the police of Bertie Township?

A. No, it was closed by the combined efforts. In July, 1958, there was a certain -- the last raid was early in July, 1958, and apparently they didn't carry on or there may have been a shift, I don't know; but the next thing that happened was a raid on the Ramsay Club a few weeks later and charges were laid.

Q. I will put it to you, at the time of the closing down of the Frontier Club ~~had~~ did you have anything to do -- at the time of the closing down of the

Frontier Club, that had nothing to do with your issuing the charter?

A. That one that went out of operation; but they still had their charter until such time there was evidence to cancel the charter. The charter was cancelled because they failed to fulfil the requirements of the Act with relation to filing information. That was a good thing. I would have been happy to have them all wind up that way.

Q. I did not say that you were taking credit for all these things, I just want to find out whether you agree with me that the documents seem to indicate that the Bertie Township Police had closed that down?

A. No, it was between the Bertie Township and the Town Police.

Q. Let us go on to the Windsor club. I take it that was closed by reason of the two operators, the conviction of the two operators, Gardner and Finnigan?

A. That's right.

Q. And in the circumstances we have discussed had nothing to do with the issue of charters?

A. Except this, the charter was cancelled very promptly, but whether the federal charters continued to exist, I

B/3

don't know.

Q. I put it to you in fairness the issuance of the charter had nothing whatever to do with the closing of that club?

A. Except they got rid of the federal charters.

Q. The conditions imposed in the letters patent that they should not be so operated:

"That if it is made to appear to the "satisfaction of the Provincial Secretary "that the premises occupied by the "Corporation are equipped, guarded or "otherwise constructed or operated "so as to hinder or prevent lawful access "to and inspection of such premises by "police. . ."

And so on.

Wasn't it reported to you from time to time that the Cookville club had a steel lined door, barred windows with vicious dogs inside?

A. That was prior to the Ontario charter and, as a matter of fact, as I said on Friday, we had some one from the Fire Marshal's Office working to try and force these changes on all three of these clubs at that time in order to make it more difficult for them to operate unless they did comply and, secondly, to make it easier to gain entry.

Q. These premises were described by Sergeant Anderson as a fortress.

A. Yes, that's right.

Q. And it was just as much a fortress after you had given these charters as it was before?

A. You would have to get evidence more directly than from myself. I said the Fire Marshal issued his orders. I understand there were complaints about the Fire Marshal's orders issued in the summer of 1959, and later.

Q. And I will put this to you: That you say you get that condition to make it hard to operate these clubs; that they should not be so constructed, guarded or equipped or operated so as to hinder or prevent lawful access to and inspection of such premises by the police?

Wendy's is recovered on you from time to time that the conversation ends and a great silence occurs, beyond which with vibrant deep laughter

A. Then was great to see Veronica observer and, as a matter of fact, as I said on friday, we had come one from the film Secretary arrive meeting by my son James whose company on all times of those clubs at that time in order to make it more difficult for them to operate unless they die simply and, accordingly, to make it easier to such every.

Q. Those premises were described by Mazzanti Andreas as a fortress.

A. Yes, that's right.

Q. And it was just as much a prisoner after you had gone than everyone as it was before?

A. The social life of the prisoner were directly from from essay?. I said the film Marshal issued the course. I understanding there were congratulations among the film Marshal's author issued on the manner of life, and later.

Q. And I mean you also to find

that you say you did such work and to make it more to open to those cases that they would not be in contrast, instead of [illegible] or [illegible] in a place to [illegible]

I am putting it to you that they continued to be exactly the same type of fortress operation, vicious dogs, steel doors and all the rest of it, after as before the issue of the charter?

A. Well, you may put it to me, but I don't know except to the extent that Commissioner Clark and McGill made their different recommendations, and I take it at that time, in the latter part of 1959, that they must have done something to ascertain that.

Q. I suggest to you that was all after July, 1959?

A. You can suggest anything you like.

Q. Didn't Anderson report that to you? He said they continued as they had before. I think perhaps you might have known it, didn't you, in your report?

A. I didn't get them personally, no. You don't think I read all the reports.

Q. I put it to you once again that you had imposed conditions on certain known gambling operations and you did not find out or cause to be found out whether those conditions were complied with or not?

A. I think the police did.

Q. I am talking about you.

A. Well, I am talking about the police.

THE COMMISSIONER: He had no personal knowledge as to whether they discontinued the practices or not.

Q. You left that to the police? Have I summarized your evidence?

A. Yes.

MR. BREWIN: Q. When you left it to the police did you ask for any reports on that matter?

A. I knew what was going on from time to time, obviously. I knew that the Ramsay Club was charged and the trial took place; and I knew that the Centre Road Club became active in 1959, again, and also, as a result of the investigation, that it was a matter of time before that would be finished; and some people thought it was finished too soon. In my opinion, it was not finished too soon at all.

Q. Mr.Roberts, another aspect of this matter before you initiated this policy of issuing the charters to these clubs, did you not consult with any of your police advisers as to what the effect was of issuing the charter?

A. I wouldn't say I directly consulted them, but we had discussions with the police about the problems that were coming

on up to that time, and they were not explicit enough. Mr. Common called in the police officers and discussed the matter with them. This was approximately a week before finalizing took place. In the report of the director there was nothing said by the police, not that I know of, that indicates they did not agree with it.

Q. We have had some evidence here that there was feeling in the Anti-Gambling Squad that the morale had been adversely affected by the issuing of these charters.

A. I didn't know anything about that until this Commission was taking evidence; but that was the middle of summer. I didn't know any of the complete circumstances as far as I was concerned. It was too bad, perhaps, that relationships at that point fell down, but that was the middle of summer. And I thought I had done everything possible.

(Page 12085 follows)

C/1/PAL

MR. BREWIN: Q. It did not occur to you, then, apparently, that the issuing of these charters to these three gambling operations might be understood and adversely affect the morale of the police? It did not occur to you, apparently?

A. It did not occur to me at all. As a matter of fact, I thought it was a very good thing and I would have thought anyone who understood the situation would agree with me; but it is obvious some do not.

Q. Mr. Roberts, have you thought it part of your duties to inquire into the extent of organized gambling in other parts of this continent?

A. No. I am not a member of Interpol; I am not at the Federal level. I am a Provincial Attorney-General and I find, as a matter of fact, that my job as Attorney-General of this Province is pretty -- I asked Mr. Norton to do a certain job, and that is on file here; and to that extent we looked into the situation of the law more than anything else.

Q. You as the chief law enforcement officer, have you tried to read about and study the nature of organized gambling --

THE COMMISSIONER: Organized what?

MR. BREWIN: Organized gambling in other

I would have

parts of this continent.

Q. Have you read about it, studied it?

A. I have an idea I know a little more about it than you do.

THE COMMISSIONER: Q. Have you read about the question?

A. I have kept myself informed.

MR. BREWIN: Q. You would have acted differently to me.

A. Reasonably informed of the situation as it is reported by people who do not know very much about it and others who do. And in this Province, as I have said Friday, I am convinced, and I am convinced today, that our police forces by and large across the Province are doing their job thoroughly. Not as well as they could, perhaps, but thoroughly. And if there was any type of, more or less, organized crime operating in our large centres in Ontario it would be known to the law enforcement authorities and they would be and are coping with it.to the best of their ability. There is a certain term of reference relevant to the subject. I did all I could, or I think I did all I could from time to time to find out the state of affairs by communications I made with the different bodies I mentioned here last Friday. Then --

parts of such companies.

Q. Have you read section 1a, quoting it?

A. I have an idea I know a little more about it than you do.

THE COMMISSIONER: Q. Have you read the quotation?

A. I have not read it myself.

MR. MOSKIN: Q. You would have read it otherwise, by me.

A. Reasonably informed of the situation as it is reported by people who do not know very much about it and always run it, and in this instance, as I have said twice, I am convinced, and I am convinced today, that our police forces by and large execute the functions they are doing which are essential. But as well as some small percentage, but unfortunately, and if there was any type of, more or less, organized crime operating in our large centres in Ontario it would be known to the law enforcement authorities and they would be not too happy with it.So the best of their ability. There is a certain form of reference relevant to the subject. I did say I could, or I think I did say I could from time to time in the course of arriving by conversations I made with the different bodies I mentioned more long ago. When --

Q. Incidentally, Mr. Roberts, it was you, again, who took the decision that the undercover investigation of Scott would be put an end to by the arrest of Wright? I thought you told us that it was your decision in substance? That is true?

A. Yes. Early in May I felt definitely --

Q. Now, now. In substance that is the fact? You have explained in your opinion Wright should not be going around in an O.P.P. uniform and Scott inducing him to do illegal acts and you said the time had arrived when he should be arrested. And, of course, the arrest put to an end the undercover investigation. Did you give serious consideration whether a continuation of that, in itself, would bring a fuller picture of the penetration of organized gambling in this Province?

A. I gave my reasons and the record seems to be clear: These three men are in jail as a result of charges laid in that fall.

Q. It was a matter of your judgment that brought the investigation to an end, or carried out on this particular undercover?

A. You are directing your question to that investigation?

THE COMMISSIONER: Just a minute. That is not what he is stating at all. He said the

Q. Incidentally Mr. Moore, if the Qui Ghola, was that one relative that underwent investigation of which would be put on and to by the arrest of Lafayette I thought you told us that it was your position in underwent that is true?

A. Yes. Merely in my I felt definitely —

Q. Now, now, is somewhat out of the theory? You have explained in your opinion bright should not be going around in an O.P.P. uniform and have indicating that is Ghola! Date and you said you also had arrival when he should be arrested. And, of course, the Lavery put be so but the Mennonite investigation. Did you give medical assistance another a communication of that, in itself, would imply a fuller picture of the possibility of organized gambling in this Province?

A. I have no reason but the reason seems to be clear. These times and are in 1923 as a result of changes into in that fall.

Q. Is one a matter of your judgment that brought this investigation to an end, or arrived out on this particular undertaking?

A. The key existing your question to that investigation.

Mr. McCONNOCHIE: That is misdirected. It is not that be in stating so all. He said the

circumstances impelled him to do that. Wright was arrested and the arrest of Wright, naturally, brought to an end the undercover investigation.

Q. That is, in substance, what you said?

A. Yes.

THE COMMISSIONER: You interpret that to mean that he had reached the conclusion the undercover investigation would not disclose something else. It might have. But, this particular undercover investigation ended because of the witness's conclusion that the time had arrived that Wright ought to be arrested.

MR. BREWIN: Yes.

Q. And you arrived at that decision because you were unhappy about the fact a man in uniform was continuing to commit, and in fact did commit, a criminal offence?

A. That is one reason.

Q. And the fact the investigation might have extended further and discovered more was not in your mind a compelling reason for continuing?

A. Well, of course, I was advised at the time of what was going on and what was carrying on. It was very confidently expected, too, three people would be involved in charges,

correctness regarding who is on time, which not correct and the error of judgment, actually, arises in on the coroners investigation.

Q. Then is, is it correct, that you said:

A. Yes.

THE CORONER: You interpret that to mean that he had reached the conclusion the coroners investigation would not conclude something else. It might have, then, this particular coroners investigation ended because of the witness's conclusion that the crime had arrived that which ought to be arrested.

MR. BERRIS: Yes.

Q. And implicated at that question because you were asking about the fact a man in uniform was contributing to assault, and is that its result, a rational effect?

A. That is one reason.

Q. And the fact the investigation might have extended further and discovered more was not in your mind a compelling reason for continuing?

A. Well, as memory I was convinced at the time of what was going on and what happening -- It was very qualitatively important, then, three people would be involved in charges.

and I had no doubt in my mind that that would be the case. Sometimes it takes time to work out the last move before the actual laying of the charge; but that does not mean anyone is necessarily holding back. I like to get things done quickly and I am impatient at times because of delays.

THE COMMISSIONER: Keep your answers precise.

MR. BREWIN: Q. You are referring to usual procedure. Do you do that, sir?

THE COMMISSIONER: It is repeating that usual procedure, to make the comment you just made.

Any questions, Mr. MacKinnon?

I take it, Mr. MacKinnon, you are not going to traverse the same ground as Mr. Brewin?

MR. MacKINNON: No, but in part I propose to in dealing with these charters. I trust I will not repeat.

---

and I had no doubt in my mind that that would do the case. Sometimes it takes time to work out the best game before the actual taking of the charge; but that does not cause in commercial dealing long. I did to get things done quickly and I am impatient at these because of delays.

THE CHAIRMAN: Keep your answers brief.

MR. ROBERTS: Yes. You are referring to usual procedure. Do you do that, sir?

THE CHAIRMAN: It is important that usual procedure, to make the answers you just made.

Any questions, Mr. Chairman?

I take it, Mr. McKinnon, you are not going to traverse the same ground as Mr. Roberts?

MR. McKINNON: No, but in part I propose to be dealing with those characters. I trust I will not repeat.

EXAMINED BY MR. MacKINNON:

Q. Now, did I understand you to state that the question of issuing Provincial charters was discussed in the Cabinet? Was that your evidence on Friday?

A. I said that I attended a Cabinet meeting on the 27th of June and one on the 18th of July and that the proposed action and the action was discussed. I have nothing more to say with respect to what might or might not have taken place in Cabinet. I am sworn to secrecy.

Q. I am not raising any argument. This was your evidence. Apparently you felt it was relevant because you said it. Can I, then, assume it was discussed on June the 27th?

THE COMMISSIONER: What is the purpose of that?

THE WITNESS: I have no comments about --

MR. MacKINNON: Because Mr. Cudney said his Minister did not know anything about it and Mr. Frost swore before this Commission he did not know anything about it. I just wondered if his statement, that it was raised and discussed in the Cabinet on these two dates, really referred to these two dates or is he restricting himself to July the 18th. I am interested in June 27.

THE COMMISSIONER: Whether it was or was

EXAMINED BY MR. MACDONALD:

Q. Now, did I understand you to state that the question of issuing Travelling Advances was discussed in the Cabinet? Was that your evidence on Friday?

A. I said that I attended a Cabinet meeting on the 6th of June and the 20th of July and that the proposed action and the motion was discussed. I have nothing more to say with respect to what might or might not have been going on in Cabinet. I be excused from answering.

Q. I am not making any arguments, that was your evidence. Consequently you felt it was perfectly honest you did it. You do. Since Barnes it was discussed in Cabinet on 27th? Was in the Cabinet. That is the proposed of Cabinet.

THE CHAIRMAN: I have no recollection about --

MR. MACDONALD: Because Mr. Bellmer said his Minister did not know anything about it and Mr. Frost swore before this Commission he did not know anything about it. I just wondered if his statement, that it was raised and discussed in the Cabinet on those two dates, really referred to those two dates or is he reconstructing himself to July the 14th. I am interested in June 27.

THE COMMISSIONER: Whether it was or was

not discussed in Cabinet, what relevance has that?

MR. MacKINNON: To test the story given to us by Mr. Cudney, that the charters should be issued and that Herman would be coming over with the applications, which as I understood the evidence was some time around the first of July. He said at that time his Minister knew nothing about it.

THE COMMISSIONER: Supposing his Minister knew nothing about it?

MR. MacKINNON: Q. Mr. Dunbar was the Provincial Secretary at that time?

A. Yes.

Q. When did you first speak to him about this matter?

A. Mr. Dunbar knew about the process between the 25th June and early in July.

c/2

Q. Isn't it a fact you advised Mr. Cudney this is what was going to be done before Mr. Dunbar knew anything about it?

A. I can't say whether it was before or after I discussed the matter with Mr. Dunbar personally.

Q. I am not questioning that, witness. Had you not come to your conclusion prior to discussing it with anyone?

A. Oh, I had come to my conclusion this would be the right thing to do, providing

ment discussed in Chicago, what relationship has that?

MR. McCLINGHAN: To test the story given talk by Mr. Dodson, that the matters should be issued and that Dawson would be dealing over with the applications, which is I understand the evidence has been that second the first of July. He said at that time his statements been nothing about it.

THE COMMISSIONER: Supporting his statement have anything about it?

MR. McCLINGHAN: Q. Mr. Dawson was the Provincial Secretary at that time?

A. Yes.

Q. When did you first speak to him about this matter?

A. Mr. Dodson came about the process between the 25th June and early in July.

Q. Isn't it a fact you advised Mr. Dodson that it was not going to be done before Mr. Dawson had anything about it?

A. I can't say whether it was before or after I discussed the matter with Mr. Dawson personally.

Q. I am not questioning that, witness. Did you not come to your conclusion prior to discussing it with Dawson?

A. Oh, I had come to my conclusion this point in the right thing to Mr. Dodson

the Provincial Secretary was prepared to do it; of course, I had.

THE COMMISSIONER: Q. I do not think that is helping us. I think he wanted to ascertain whether or not, before you definitely reached the conclusion that the charters should be granted to these people --

Have you heard what I was saying, Mr. MacKinnon?

MR. MacKINNON: I am sorry, my lord, I lost the volume of Mr. Cudney's evidence.

THE COMMISSIONER: What I understood you are probing at the moment is this: Prior to the decision of Mr. Roberts, as Attorney-General, that these charters should be granted, had you discussed the matter with Mr. Dunbar?

MR. MacKINNON: That is right.

THE COMMISSIONER: Q. Now, had you?

A. Of course, I must have because, after all, the decision to grant them must have been his decision, not my decision, because he did the granting.

MR. MacKINNON: Q. May I read Mr. Cudney's evidence --

A. Let me hear Mr.Cudney's evidence.

THE COMMISSIONER: Q. No. Let me review it again: Mr. MacKinnon wants to know, and I would like to know, too, before you, yourself, as Attorney-General, decided the proper

the Provincial Secretary was prepared to do it; of course, I had.

THE CHAIRMAN: Q. I do not think that is helping us. I think he worked to accurate statement or not, before you definitely assume the conclusion that the statement would be pleaded in those people --

Have you heard what I was saying, Mr. Mackenzie?

MR. MACKENZIE: I am sorry, my lord, I lost the volume of Mr. Gurney's evidence.

THE CHAIRMAN: That I understand you are putting as the moment in time: Prior to the decision of Mr. Roberts, as Attorney-General, that these statements should be pleaded, had you discussed the matter with Mr. Rainey?

MR. MACKENZIE: That is right.

THE CHAIRMAN: Q. Now, had you?

A. Of course, I must have discussed, after all, the decision to prosecute then must have been the decision, not of Rainey, because he did the prosecuting.

MR. MACKENZIE: Q. Did I read Mr. Rainey's evidence --

A. -- Let me hear Mr. Rainey's evidence.

THE CHAIRMAN: Q. No. Let me review it again: Mr. Mackenzie tried to show, and I would like to know, too, before what you, yourself, as Attorney-General, decided the prosecu

course would be to issue Provincial charters in order to bring these three clubs under the jurisdiction of the Provincial charter rather than the Federal, had you discussed the matter with Mr. Dunbar?

A. I think the answer to that would be no; that I had for some considerable time felt this would be a good thing to do but, as there was no sign of anybody agreeing to it, I discussed it with him as a hypothetical question; but I did tell Mr. Dunbar what I thought was the right thing to do and he acquiesced in it quite readily.

Q. The order of events was this, then, as I understand you, that you made the decision that the proper course to follow was to have Provincial charters issued. You, then, conveyed that opinion to Mr. Dunbar, the Provincial Secretary, and he concurred?

A. That is right, sir, and I conveyed it at that interview with Mr. Herman.

MR. MacKINNON: Q. Let me read you Mr. Cudney's evidence at 1133, line 14 -- 13:

"Q. The next note I have of "what you have said of this con- "versation is that Mr. Roberts "intimated the decision had been "made. Do you recall telling us "that in chief?

"A. Yes, he said that it had
"been decided, yes. It had been
"decided --
"Q. What had been decided?
"THE COMMISSIONER: Let him finish.
"A. To issue the charters.
"MR. BREWIN: Q. Had been decided
"to issue the charters?
"A. Yes.
"Q. In other words, it had been
"decided before any application had
"been received and before your
"Department had considered the matter
"at all?
"A. Yes.
"Q. The decision had been made?
"A. Yes.
"Q. There was an air of finality,
"I gather, about it in the conversation?
"A. Yes."

He is reciting the first conversation he had with you. Is that a true report of your conversation?

A. I would say that Mr. Cudney was, in my view, a very experienced civil servant, a deputy minister, and he was -- would have to look after the routine of it but he had to talk it over with his Minister and, obviously, anything I said to him was with the background

that his Minister would be in favour of it.

Q. You assumed that?

A. I don't know whether I assumed it or whether I talked to him first and then talked to Mr. Cudney. There was never any doubt once I discussed it with Mr. Dunbar that he agreed and that it was a good idea.

Q. You never requested or sought the assistance or advice of Mr.Cudney on this matter?

A. Well, Mr. MacKinnon ---

THE COMMISSIONER: Q.No, no.

A. I would have to persuade them, of course. If he thought it was not the right thing to do he would tell his Minister. It would not be the first time I have had some other Department go contrary to what I said.

MR. MacKINNON: Q. You also directed he was not to ask for a police report on these people behind these clubs.

A. I don't recall any statement to that effect but it is obvious to me both Mr. Cudney and myself would understand that when the club is suspect we would not be determining the matter on a police report.

Q. Mr. Cudney said that if he had known what was in this police report, Exhibit 9, he would not have gone along with granting the charters.

that his Minister would be in Prison for it.

Q. The Honourable Gentlemen

A. I don't know whether I mentioned it or whether I talked to him first and then talked to Mr. Doherty. These two have had quite some I discussed it with Mr. Doherty then he agreed and that it was a good idea.

Q. You never requested or sought the assistance or advice of Mr.Doherty on this matter?

A. Well, no, Mr.Chairman ——

The Commissioner: O.K., no.

A. I would have to paraphrase these, of course. If he thought it was not the right thing, he would tell his Minister. It would not be the first time I have had some other Department go contrary to what I said.

Mr. Commissioner: Q. You also discussed he was not to ask for a police report on these people Mainland Chinese?

A. I don't recall my discussion that point but it is evident to me from Mr. Doherty and Sergeant Wong mentioned that when the chief is engaged he would be embarrassing the matter on a police report.

Q. Mr. Doherty said that if he had done that one is this police report, Sergeant Wong he would not have gone along with granting the request.

A. Well, I am surprised to hear him say that.

Q. He said that in the box.

A. Because he --

THE COMMISSIONER: He said that.

MR. MacKINNON: Q. I take it you agree that somebody --

A. May I just interject this? I am quite certain Mr. Cudney at some point along the line indicated he thought it was a good idea. I am sure that is in the evidence somewhere; after having heard what the purposes were and what the objects were, that it was a good idea. He certainly told me personally on several occasions he thought it was a good idea.

C/3

MR. WILSON: I think at 1138 and 9 you will see what Mr. Cudney has to say on that point. He said at first blush he did not think it was proper and, then, he thought it over. It is 1138 and it jumps to 1151.

MR. MacKINNON: Q. Do I take it you agree with Mr. Brewin, that so far as the closing down of these three clubs, the granting of Provincial charters had nothing to do with it?

A. I don't think I agreed with Mr. Brewin wholeheartedly on any question he gave me. I gave my answers and I adopt my answers that I gave him to you now.

A. Well, I am acquainted to some lady by that.

Q. Do you know her?

A. Somewhere in —

THE COMMISSIONER: Do only that.

MR. McCLEMENT: Q. I have it you course that correct? —

A. Not I just remember that. I do quite remember Mr. Gainer on some point about the line indicated by through it was a good idea. I am more that in the evidence concerning other other meeting (meet that) the Supreme Court and that the Atlantic Ocean, that it was a good idea. My particularly told me personally in general conversation in Toronto, it was a good idea.

MR. WILSON: I think at 1130 and I you will see what Mr. Gainer has to say on that point. In said at first blush he did not think it was proper use. Then, he thought it over. It is 1130 and it goes to 1141.

MR. McCLEMENT: Q. Do I take it you agree with Mr. Hunter, that as far as the situation now of these lines alone, the granting of permanent structure has nothing to do with the

A. I don't think I agreed with Mr. Hunter particularly in his question to me.

Q. I gave an answer and I might be wrong. I gave him to you now.

THE COMMISSIONER: Q. The granting of Provincial charters did not result in the final closing of the clubs; it was the cancellation of the charters.

A. Yes, that wiped them off the map.

MR. MacKINNON: I want to come to that, if that is the view.

THE COMMISSIONER: Suppose we have a ten-minute recess?

MR. MacKINNON: Yes.

---Recess from 11:35 to 11:50 o'clock a.m.

MR. MacKINNON: Just so you will have the reverse, where Mr. Cudney said he would have advised against issuing the charters if he had known the nature --

THE COMMISSIONER: 1133?

MR. MacKINNON: 1130, line 17, and following.

Q. You mentioned in your evidence on Friday this Exhibit 75, which is a report by the Commissioner of Police dated June 5 --

A. I wonder, before you leave that, you gave a reference to his lordship with regard to Mr. Cudney. Would you tune me in on it, please?

Q. I will read it to you:

"Q. And I put it to you, Mr. "Cudney, if this information about

THE CHAIRMAN: Q. Did questions of international observers did not result in the final closing of the clubs; it was the cessation of the observers.

A. Yes, that signed them off the map.

MR. MACDONALD: I want to come to that, if there is the view.

THE CHAIRMAN: Suppose we have a [illegible]

MR. MACDONALD: Yes.

—Resumed from 11:00 o'clock a.m.

MR. MACDONALD: Just so you will know the context, sir, Counsel said he might have evidence against leading the witness if he had known the source --

THE MINISTER: Alright

MR. MACDONALD: [illegible], sir, but [illegible]

Q. You mentioned in your evidence in-chief that [illegible] in a policy in the Commissioner of Police [illegible]

A. I beg[illegible], Barrie was [illegible] gave a reference to his [illegible] regard to Mr. Cudney. Would you [illegible] the planes.

Q. I will read it to you.

"Q. And I put it to you, Mr.

"Cudney, of this information [illegible]

"this man Damore, had been known
"to you and you had been asked
"for advice you would have advised,
"surely, against issuing a charter
"to a social club to such an
"individual?
"A. Yes, undoubtedly."

A. Yes, putting it in the abstract; but Mr. Cudney has very clearly indicated before this Commission, and to me personally, that knowing the situation as it is outlined to him he is wholly in accord with it and at the time the issue took place he was wholly in accord with it and so advised his Minister.

Q. Did you ask Mr. Herman what individuals he was representing at any time?

A. No. He came up representing clubs. I think there was a list of 1400 members of one of these clubs. Perhaps you are interested in that, and Mr. Winterweyer was at one time.

Q. I will be coming to that. On December 22, 1961. Quite apart from that, I am asking you whether you had any discussion or asked any question of this solicitor as to what individuals he was appearing for?

A. No, I didn't. He was representing clubs who were entities, as far as I was concerned.

"Did you learn, had that come

"to you and you had been asked

"for advice you would have advised,

"merely, without trending a decree

"to a mental club to such as

"Instructor?

"A. Yes, undoubtedly."

A. Yes, putting it in the antecedent

Q. Going back over slightly indicated before

this discussion, and it is probably, this

knowing the situation as it is continued to

Mr. Le is really in accord with it and in

the fact you have that place by the reality

is added with it and in defined all discussion.

Q. Did you ask Mr. Herman when

individually he was representing as any time?

A. No. Talked to representing

class. I think there was a list of 1900

members of one of these clubs. Perhaps you

are interested in that, and Mr. Hinkelmann

was in one class.

Q. I will be coming to that. On

December 29, 1923, this report from Dean,

I am asking you whether you had any discussion

or heard any question of this contrary as to

what individuals he was appointing first?

A. No, I didn't. He was representing

clubs who were entitled, as far as I was

concerned.

Q. I return to Exhibit 75, which is this report of June 5, 1957, a memorandum to the Deputy Attorney-General.

THE COMMISSIONER: May I have Exhibit 75?

MR. MacKINNON: I have it, sir.

THE COMMISSIONER: Very well.

MR. MacKINNON: Dated June 5, 1957, being a report on the gambling activities of these three clubs. You made reference to it in your evidence so you are aware of it.

A. The question of when I was aware of it might be relevant.

Q. In this document it reports --

A. I would like to make this general statement --

Q. Oh, please.

THE COMMISSIONER: Q. Just a moment.

A. He has made a statement I was aware of it but I wouldn't be aware of a great many of these records normally as a matter of course.

MR. MacKINNON: Q. This was a very special report.

A. May I see it, then, and then I can talk a little more intelligently about it.

Oh, I fancy at some stage after that date there would be some reference to me about this question of police making investigations every night, and that sort of thing. To that

Q. I return to Exhibit 78, which is the report of June 3, 1977, a memorandum to the Deputy Attorney-General.

THE COMMISSIONER: May I have Exhibit 77?

MR. MACDONALD: I have it, sir.

THE COMMISSIONER: Very well.

MR. MACDONALD: Dated June 3, 1977, being a report on the gambling activities of these three clubs. You have referred to it in your evidence as you say memo of it.

A. The question of what I was aware of it might be relevant.

Q. In this document it reads --

A. I would like to make that personal statement --

Q. Go ahead.

THE COMMISSIONER: Q. Just a moment.

A. He has made a statement I was aware of it but I wouldn't be aware of a great many of these matters commonly as a matter of course.

MR. MACDONALD: Q. That was a very detailed report.

A. Yes I was it, then, and then I can tell a little more intelligently about it.

Q. I know at some stage after that date there would be some reference to the above this question of police officer investigation every night, and those sort of things. To that

extent I would know the contents.

Q. Isn't it a fact, that two of the three clubs were, in fact, out of business in June, 1957, according to this report, the Roseland Club and the Frontier Club?

A. It might have been at that particular date but I don't know from personal knowledge.

Q. It says so. It says from April 27, 1957 there has been no activities in the Roseland Club.

A. There were lots of activities after that; sufficient activities to get a conviction.

Q. Very certainly, there I agree with you 100 per cent. But, I am saying that what happened was that the Bertie Township police and the O.P.P. raided the Frontier Veterans Club in the first six months of 1958 and by virtue of those raids they put the club out of business.

A. For the moment.

Q. It is out of business to this date.

A. I am not going to get into arguments about what they may have done. The fact is they did a job, between the Bertie Township police and the O.P.P. and they managed in that particular situation to dissuade these people by their actions from carrying on

whereby I would lose the wholesale.

Q. Isn't it a fact, that two of the three clubs were, in fact, out of business in June 1967, according to the records, the Downtown Club and the Fountain Cigar

A. It might have been at that particular time but I didn't know from personal knowledge.

Q. I hope so. Do you know Sgt. 67, 1967 clubs had been no activities in the Downtown Club.

A. There were lots of activities afterhours activities outside on gas & alcohol.

Q. They certainly, have I never sold you 100 per cent. Not, I am saying that was happened was that the Jarvis Tavern, Miles and Vanderp, called the wholesale breakers from in the first six months of 1967 and by various of these calls they put the club out of business.

A. Too too numerous.

Q. It is out of business to this date.

A. I am not going to put him

[illegible] that one left town. The last is that did a job, between the Detroit Detective and the O.P.P. and they managed in that particular situation to discover those people by their actions from carrying on

and the charter still existed.

Q. A charter cannot exist apart from individuals?

A. I don't know anything about that. But, I mean, the charters, with the individuals, still stood, it could stay, up until the time there was a legal cancellation of the Federal licence, the interest in relation to the new club.

Q. Do you say there is something more in evidence apart from Exhibit 98, which states this is the report on the raids, and states on July 2nd, 1958, the club closed?

A. That is right.

Q. Have you any evidence toshow it re-opened on these premises?

A. All I am saying is: Had there been in existence a charter under which it had been operating before it could well have re-opened, say, a week or two weeks later or at any particular time, but that particular Federal charter, we disposed of these three Federal charters and that, to my way of thinking, was a very good piece of business with relation to one of the most difficult jobs the police have had to contend with in the Province of Ontario.

c/

Q. Is it not true the body who issues these charters or licences is the

and the matter still stands.

Q. A shorter method exists than that immediately?

A. I don't know anything about that, but, I mean, the matters, with the individuals, still stand, if said stay, so until we have above was a legal consolidation of the Federal income, the interest in relation to the new club.

Q. Do you say there is something more in evidence than Exhibit 20, which shows this is the report on the valve, and cause to July and 1927, the situation?

A. That is right.

Q. Have you any evidence beyond is contained in those pamphlets?

A. Yes I am saying yes. We have been an endeavour a character under which it had been operating before it could well have recommend, say, a week or two weeks later or at the particular time, but that particular Federal counsel, we suggested of these three Federal matters and that, to my mind of criminal, was a very good piece of business with relation to one of the most difficult jobs the police have had to contend with in the province of Ontario.

Q. Is it not true the body who issues these charters or licences in the

headquarters of the Army, Navy and Air Force Veterans in Canada? Isn't that right?

A. Yes.

Q. Beforeyou issued these new charters in 1957 did you make any attempt to approach the head office, in June of 1957, the head office of this association, and ask them what they were doing about these charters?

A. No, but we had had dealings with them over the years, both Mr. Magone before my time and while I was there, and we were convinced we would get no help. They would say they looked into this and, then, report back the clubs, as a result of their investigations, were being run in a perfectly proper manner.

Q. The only evidence we have of it is in March, 1955. Have you any more recent information?

A. No. That was one, the president of the organization -- I am trying to think of his name.

THE COMMISSIONER: MacNamara?

A. MacNamara is one but there was another.

MR. WILSON: McGivern?

THE WITNESS: McGivern. He lived in Vancouver. He came down and purported to make an investigation and gave them a clean

bill of health.

MR. MacKINNON: Q. That was when, 1955?

A. Whenever it happened. Later, Mr. MacNamara claimed very definitely, and there is correspondence on it, that they carried on perfectly and were legitimate clubs and that the Granite Club, we might as well be raiding the Granite Club. And that is the attitude they took.

Q. What correspondence is this? I wonder if you have it.

A. Correspondence that is on file here.

Q. There is none on file here.

A. In relation to that letter Mr. Herman wrote, armed with a bunch of wires, and so forth. MacNamara is in that picture, in that relationship, in my recollection.

THE COMMISSIONER: He gave evidence, did he not, on the application?

MR. WILSON: We have it. He is a witness before the hearing before the Deputy Provincial Secretary. We also have a reference to him in the speech by Mr. Wintermeyer at page 107, where he said his evidence was fantastic before the Deputy Provincial Secretary.

MR. MacKINNON: We have not had an opportunity of seeing Mr. MacNamara here,

although that is one witness I had requested.

MR. WILSON: Surely we do not have to have any evidence from Mr. MacNamara about what a simon pure league thesethree clubs were operating in.

THE WITNESS: I answered the question by saying I was satisfied we would get no co-operation in that direction from the enquiries I myself made in this and what I learned from Mr. Magone, who was the Deputy for some years prior to my taking office.

MR. MacKINNON: Q. Were you aware at this time these gamblers were in fear of losing their federal licence from their head office?

A. I was not, and I don't fancy there was very much fear.

Q. Let me read Mr. Gardner's evidence.

A. I am sure you are going to approbate.

Q. Page 1991:

"Q. All right; so this was to make "sure that you had a bird in the hand, "namely, a provincial charter?

"A. I am going to answer that "question by saying we wanted to "stay in business.

"Q. And this was the way you were "going to do it, get the provincial "charter and stay in business?

"A. I would say that is practically "right."

A. I have no knowledge and I have heard no evidence given here by anybody that indicated there was any such action pending at the Ottawa level or anywhere else, and I certainly knew nothing about it.

Q. You made no investigation to find out whether there was such action pending?

A. I knew of no such action and know nothing now of anything to suggest that.

Q. Does it surprise you that they were willing to give up their federal agreement and take your control?

A. It doesn't surprise me in view of what had gone over the period of time. It did surprise me they were willing to do it but it was the sort of thing I thought would happen and would be beneficial.

Q. Weren't you suspicious?

A. Not a bit suspicious because I knew for years and years there was no success with these federal charters and there were provisions in our provincial charters which we could have success if they did not behave.

Q. What possible motive would they have to give up these federal charters,

bad

which you say were all-protecting?

A. You tell me? I do not know.

Q. Did not you ask?

A. I don't ask people what their motives are. I was -- I was very pleased with the fact that we had reached the point, as a result of a lot of pressure, to do this. I have no apologies to make to you or anybody else for that.

Q. With the result you gave them a new lease on life?

A. We gave them no new lease of life; we put three nooses around their heads and were successful in putting them around their necks eventually.

Q. Exhibit 75 seems to say they were near the end of the road.

A. All right, you make your own statement.

THE COMMISSIONER: Ask questions instead of making statements.

MR. MacKINNON: I did not prepare these exhibits.

Q. Now, so far as these three clubs were concerned, I believe Mr. Brewin has mentioned this: Their physical characteristics remained the same. Isn't that correct, so far as the barricaded doors and the bars and bolts, everything remained the same? You

called them fortresses. That is a fair description?

A. Prior to the time --

THE COMMISSIONER: Just a minute, he has not asked a question.

MR. MacKINNON: Q. Didn't they, then, remain the same after July the 12th, 1957?

A. I wouldn't say they remained the same. I mentioned the Fire Marshal's orders. I would say eventually the fact, not necessarily solely, that they were barring entrance was one of the grounds on which the charter was cancelled, which was the very kind of thing we hoped we would be able to do if the situation warranted.

Q. Which charter are you talking about?

A. The Centre Road charter.

Q. Mr. Wilson gave us earlier a Provincial Police report, a portion of which has been read in by Mr. Brewin, dated April 21, 1961. It is a memo to G.H.Q. from Sergeant Anderson and it is re premises at 2165 Centre Road, Township of Toronto, County of Peel.

A. Perhaps you might let me have a copy of that.

Q. I will read one sentence on the second page. He says that as of June 1, 1960,

C/S

these premises has remained closed and has not re-opened its doors as a club since.

A. Well, it is true as can be. What is wrong with that?

Q. Nothing to do with the provincial charters being granted to them that it was closed at that occasion?

A. The provincial charters ~~xxx~~hearing had taken place and the decisions were in the course of actually being made. I don't know what the gamblers were thinking about it. Perhaps I should not call them that. I don't know what the people connected with the club were thinking when this happened. The fact of the matter is they had a hearing and recommendations made and at the same time there was an undercover investigation going on, all with the purpose of cleaning up a bad situation, if it was bad. What other object could we have, or what other end result could we have that was better?

Q. I suggest the club had closed before the club was informed at all its charter had been cancelled. That is the effect of this report.

A. I don't know if it was but if Anderson says it was closed as a result of the arrest of Wright, that is so. But, there is nothing to prevent it opening if the

charter was still in existence.

Q. Has any idea been given to you as to how much money these clubs were making in a month?

A. I have no idea whatever.

Q. Never any information given to you on that?

A. I have no idea whatever about that.

Q. So far as the closing of the Roseland Club is concerned, we heard the evidence of Inspector Hatch and Mr. Common, and others. Were you aware or were you advised that Sergeant Hatch, as he then was, was complaining about leaks of his reports to headquarters and that he asked leave not to make any reports?

A. No, I wasn't aware of that incident at all.

Q. You were never advised of that. And that subsequently, as a result of a raid conducted by him, this club was closed?

A. There is a lot of the evidence come out in this Commission; I can understand his apprehension.

Q. Pardon?

A. As a result of evidence which has come out, not only here but at trials, I can understand his apprehension; but I had

not the slightest indications at all that there were leaks at all along the line. Nobody brought that to my attention in the office, that these things were actually happening.

Q. To your knowledge this, of course, you have described as a completely unique situation, the issuing of these provincial charters. Did you advise the police in any memo that they were to watch these bars and bolts clause which were in these charters?

A. I am not in the habit of advising the people directly.

THE COMMISSIONER: Q. No, no.

A. No, I didn't directly. I don't give the police instructions myself.

MR. MacKINNON: I am not asking that. You took a very personal interest in these charters?

A. I took an interest in getting this thing settled in the way it was settled and I took a great deal of pride in the way it was accomplished.

Q. So far as the follow-up, if there was to be any, once you issued these charters you gave no further instructions personally as to what was to be done?

A. No.

Q. Apart from issuing the press release?

A. No, no more than I would give the

and the disturbances indicated if all your boys were back at 121 along the line. Because Brogger had an my activities in the civilian, that these things were actually happening.

Q. To your knowledge this, of course, you have described as a completely unique situation, the housing of these provincial prisoners. Did you advise the police in any case that they were in actual close-lock and what risks that were in that connection?

A. I am not in the habit of advising the Angola Ministry.

THE CHAIRMAN: Q. Yes, Mr.

A. No, I didn't directly. I don't have the police instructions myself.

MR. McKINNON: I am not sending that. You have a very prominent connection in those proceedings.

A. I took an interest in getting this thing settled in the way it was settled and I took a great deal of pride in the way it was accomplished.

Q. So far as the follow-up, if there was to be any, have you learned that discussion you gave as further investigation personally as to what was to be done?

A. No.

Q. Apart from leaving the press release?

A. Nothing more than I would give the

police instructions in how to capture a murderer or a criminal. I have enough confidence in their ability that they know their jobs. If they have not, they should not be there.

Q. Did Mr. Herman in any of his interviews communicate to you that these clubs were in a bad way, that they were on the verge of closing down?

A. He certainly did not. To me. Because, to the extent that he was urging that they were very unfairly treated as a result of the harassing attitude of the police, to the extent that was a weapon of closing them down, I suppose that would be a reasonable interpretation; but he did not in any sense indicate to me they were out of money or could not afford to operate. I was not concerned with that phase of it one way or the other.

Q. With regard to these instructions of May the 25th, 1956, which Sergeant Anderson has in his diary, did I understand you to say you could not remember giving those instructions, namely, to raid only on complaint?

A. I didn't give any instructions of that sort at all. What may have happened on that occasion, in the light of the discussions that took place --

police instructions is due to negligence a mistake or a criminal. I have enough confidence in their ability that they know their jobs. If they fuck up, they should not be there.

Q. Did Mr. Bowers in any of his interviews mentioned to you that these clubs were in a bad way, that they were on the verge of closing down?

A. He certainly did not. To me, however, it did seem why he had said that they were very unfairly treated as a result of the harassing attitude of the police, to the extent that was a reason of closing them down. I suppose that would be a reasonable interpretation; but he did not in any sense indicate to me they were out of money or could not afford to operate. I was not concerned with that phase of it one way or the other.

Q. With regard to these instructions of the RCMP, upon which Inspector Ashton was in his diary, did I understand you to say you could not remember giving those instructions, namely, to read only on weekdays?

A. I didn't give any instructions of that sort at all. What may have happened in that conversation, in the light of the diary, reminds me that from time —

THE COMMISSIONER: Q. Never mind what might have happened. You did not give the instructions?

A. I gave no instructions as such at all. But I want to make it clear, Commissioner McNeill, Mr. Magone and others and myself were discussing the best method of dealing with the very difficult problem with relation to the facts at that particular time and I don't say that might not have been considered as the best way of doing it at that particular time as a result of things which had not been successful. But, there was no thought in my mind of giving instructions for a period of time as to how these men -- instructions as to how they cope with these clubs, nor did I have such thoughts in my mind.

Q. You would not think Sergeant Anderson would misreport?

A. I can't say whether he had any proper conception of what was going on. He was not brought in at my request. He must have been brought in by Commissioner McNeill.

Q. In your evidence on Friday you say at page 11930 in answer to a question by Mr. Wilson, you were reading from a copy of a report made by Sergeant Anderson:

"A. By Sergeant Anderson, dated the

Q. Was anything else said when matters were happened. You did not give the transmission?

Q. I gave no instructions on such as all. But I meant to make it clear, Commissioner Smith, Mr. Wagner and Mr. and Mrs. were discussing the last option of dealing with the very difficult problem with relation to the Jews at that particular time and I don't say that alpha had been considered in the best way of doing it at that particular time as a result of things which had been mentioned. But, there was no discussion in my mind of giving instructions for a period of time of 12 more days -- instructions as to how they dealt with these cases, nor did I have such discussions in my mind.

Q. You would not think Sergeant Andrews would disagree?

A. I don't say whether he had my proper conception of what was going on. He was not brought in at my request. He must have been brought in by Commissioner Smith.

Q. In your evidence on Friday you say at page 1[illegible] in answer to a question by Mr. Fitzon, you were referring from a copy of a report made by Sergeant Jackson:

"A. By Sergeant Jackson, dated the

"14th of January, 1957. I read in para-
"graphs - rather, I read the paragraph
"which is the third from the bottom: . . . "
This is a paragraph which reads, and this is in
May, 1957:

"' Following verbal instructions
"of the Attorney-General, Mr.
"Roberts, that the three alleged
"gaming houses operating in the
"province be raided only on
"receipt of direct complaints, . . . "

And, then, he talks of the three raids
that resulted. Did you ever contradict
Sergeant Anderson --

A. That statement you are reading
from is a report he prepared for the year 1956
to his superior, McNeill, in order that
McNeill could make up his annual report for
1956 and he was talking in terms of 1956,
and I assume May, 1956, in relation to that
subject matter. I know nothing about that.
They came to me in the way I described because
C/6 of a request from Peterborough by the local
Member as to gambling and the law, and so
forth. I asked my Director of Public
Prosecutions to give him an answer, for the
late Mr. Scott, and he in turn passed it
through the Commissioner, McNeill, and McNeill
passed it to Anderson and on the way back there

"24th of January, 1937. I read in pro-
"gramme - notice, I read the preservation
"notice in the valid form the message . . .
"This is a preservation which reads, and this is to
"say, 1937:

"" Following verbal instructions
"of the Attorney-General, Mr.
"Hoover, that the house allowed
"gaming houses operating in the
"province to remain only on
"payment of yearly installments. . . .

And, then, he talks of the three cards
that remained. Did you ever contribute
anything [illegible]

A. Well [illegible] pre-war [illegible]
from in a report to prepared for the year 1936
or the department. Actually, it [illegible]
normally would make up its annual report for
1936 and do not talking in terms of 1936.
and I mean [illegible], in relation to [illegible]
subject matter. I know nothing about that.
They came to me in the way I described because
of a request from headquarters by the local
[illegible] in question and the [illegible]
[illegible]. I [illegible] [illegible]
recommendations to give him an answer. Now the
[illegible] Mr. Scott, and he in turn passed it
through the Commissioner, initially, and normally
answer it in [illegible] and in the way [illegible]

is attached this particular document, which I never knew existed unless I saw it in that particular time. When I saw it I realized there was a very peculiar interpretation of anything I said and I began to set in motion what became an extremely active attack on all three of these clubs, as outlined by me on Friday. That was one of the reasons for that action, which was very evident later that spring.

Q. Did you contradict Sergeant Anderson at that time and advise him orally or in writing it was quite wrong?

A. I don't think I spoke to Sergeant Anderson -- I haven't spoken to Sergeant Anderson half a dozen times in my life. He isn't under my command.

Q. Did you tell the Commissioner?

A. I read that to the Commissioner at the time and I remember telling the Commissioner I wanted to know what was going on on this squad and I was given periodical reports to let me know at my desk.

Q. Did you tell the Commissioner that Sergeant Anderson was quite wrong in not reporting what he said you told him?

A. I drew attention to that particular memorandum in Sergeant Anderson's

report and I explained to him, definitely, I had no such intention or thought of that sort of thing as a persisting procedure. Of course, I didn't have it. Actually these people would change their methods from week to week and month to month. If they didn't the people they were trying to get would certainly be having an easy time.

THE COMMISSIONER: Q. Did you have it in mind as a temporary modus operandi?

A. It could be. I don't recall that in detail at the present time. At that occasion we were discussing gambling and there were certain new methods discussed. We also discussed the difficulty, the impossibility of getting in on these raids an undercover man. It may well have been that it was the view of everybody there. Certainly, it was the view of everybody there, the people I was talking to. Maybe not Anderson, but it was the combined thinking of Magone, MaNeill and myself; whatever was done was our combined thinking.

MR. MacKINNON: Q. Did not you call Commissioner MaNeill in, and Sergeant Anderson I believe, as a result of Herman's complaints at this time, in May of 1956? Isn't that the reason you called him in?

A. I don't think so. I have no

respect and I explained to him, particularly, I had no much intention or showing of that kind of thing in a available phenomenon. In summary, I didn't have it. Actually there was no need and needs to month. My only daddy's who taught that were living in my world.

ATTORNEY: Intend in back time.

THE CONSTITUENT: Q. Did you have it in mind as a temporary model somewhere?

A. It would be, I don't should come in general at the present time. As with mentality in this direction quality and there were crystal are minute diamond.

We also discussed the difficulty, his importability of passing in on these radio or wavelength man. It may well have been that it was his view of everybody else.

CONTINUE: It was the view of everybody else, the people I was talking to. Maybe not personally but it was his method.

Knowing of degree, Donald and myself, however was done was our combined opinion.

MR. HOWLINSON: Q. Did not you call Commissioner Sobell in the program?

Moreover I believe, as a result of Morrison's conversation at this time, in May of above isn't also the reason you called him in?

A. I don't think so. I have no

recollection what was the reason at all. I don't think there was anything happened that particular time from Herman that I knew of. If you can refresh my memory as to something; but I have no recollection of Herman at that time.

Q. You have no recollection as to why you would be discussing this particular subject with Anderson and Commissioner McNeill?

A. I gave you the details on Friday of what happened in March and April, and this was May, of 1956.

Q. Now, in his diary he says - this is Sergeant Anderson:

" . . . execute warrants only on "complaints. Discontinue trying to "get officers in for time being to "see what happens."

Does that strike any familiar note in your mind?

THE COMMISSIONER: What date?

MR. MacKINNON: This is May 25, 1956, Exhibit 69.

A. It could be the combined thinking of that time, that would be the best way of dealing with it.

Q. What did you expect would happen?

A. Well, if there was -- the club was

[illegible] [illegible] [illegible] I doubt there were any circulating memoranda that pertained to Mr. Thomas from Morgan that I know of. He had had [illegible] [illegible] [illegible] but I have no recollection of Morgan at that time.

Q. Did you do something in the matter why you would be discussing this particular subject with Johnson and Commissioner Smalley?

A. I gave you the details on Friday of what happened in Miami and Dallas, and this was July, of 1962.

Q. Now, in this diary he says - this is Morgan's memorandum:

" . . . concrete workers only on "compliance. Discontinue trying to "get officers in for time getting to "see what happens."

Does that strike any familiar note in your mind?

[illegible]

Mr. McCLOSKEY: That is my [illegible] Training Br.

A. It could be the combined objective of that time, that would be the best way of dealing with it.

Q. What did you suppose would happen?

A. Well, if there was -- the plan was

running on its own and somebody was badly damaged and came and made a complaint, then, you would have the evidence you had been looking for for years to take them out of it. Time after time when they made their raids, no evidence. You had, as Sergeant Anderson remarks, to get the evidence. He couldn't get the people in there who could be present at the tables and see what was going on. If somebody had been badly hurt and laid a complaint then you would have first hand evidence. Now, that may have been the thinking at that time, I wouldn't say it was not the thinking; it may well have been.

Q. To your knowledge had you had any complaints?

A. Yes. Atwood. He came up in November, 1957. His evidence was by way of a complaint and it resulted in the closing of the Roseland Club.

Q. That is not the way Inspector Hatch advises. He discovered this man, who was prepared to give evidence.

A. Well, that is all right, it is still a complaint. Usually the police go out and discover complainants when crimes are committed; they do not rush into the office.

Q. Is that the type of complaint you had in mind?

coming [illegible] the bar and somebody was badly damaged and then [illegible] made a complaint, then, you would take the evidence you had been [illegible] the [illegible] to take them out of it. [illegible] after [illegible] they made their [illegible], evidence. The [illegible], as Sergeant [illegible] [illegible], we got the evidence. We couldn't get the people in there who could be present at the tables and saw what was going on. If somebody had been badly hurt and laid a complaint then you could have [illegible] that evidence. But, [illegible] the thinking at that time, I wouldn't say it was not the thinking; it may well have been.

Q. To your knowledge had you had any complaints?

A. Yes. [illegible]. It came up in November, 1967. The evidence was of way of a complaint and it resulted in the closing of the [illegible] Club.

Q. That is not the one [illegible] [illegible]. He discovered this one, who was prepared to give evidence.

A. Well, that is all right, it is still a complaint. Usually the police go out and discover contraventions that [illegible] are committed; they do not come into the office.

Q. Is that the type of complaint you had in mind?

A. Somebody was badly hurt or somebody thought the game had been planned on him, it wasn't square, and then you would get a witness whose evidence would get a conviction.

Q. Did you have any examples of complaints with regard to these clubs as of May 25, 1956?

A. No. I have told you on Friday the situation that was in the public eye in relation to federal charters as a result of a question in the House of Commons. The Air Force ground observation corps situation was one of the things that was brought about at the time.

THE COMMISSIONER: No, no, you are not answering the question. Have you had any complaints?

A. Well, I hadn't, personally.

MR. MacKINNON: Q. To your knowledge?

THE COMMISSIONER: Q. Did you have any knowledge of complaints by any person?

A. Of course, there is a lot of hearsay because what I think somebody suggested at some stage, I do not know that I can tie it into this date, that some farmer had been badly trimmed, but nobody came forward with any evidence.

MR. MacKINNON: Q. Briefly, for a moment, turning to Magistrate Thompson. He

A. Somebody was really hurt or somebody thought the game had been planned in fun, it wasn't serious, and then you really got a mixed crowd without really an association.

Q. Did you have any complaints or complaints with regard to these clubs as of May 29, 1964?

A. No. I have told you on Friday the situation that was in the public eye in relation to federal charters as a result of a question in the House of Commons. The Air Force ground controlled entry situation had had of the clubs that was brought into at the time.

THE COMMISSIONER: No, no, you are not answering the question. Have you had any complaints?

A. Well, I hadn't, personally.

Q. MACDONALD: Q. Do you acknowledge knowledge of complaints by any persons?

A. Of course, there is a lot of rumour before that a total stranger suggested at some stage, I do not know when I was the if some kind [illegible] figure had been really trained, but nobody came forward with an evidence.

MR. MACDONALD: Q. MARTIN, for a number, turning to Mr[illegible] Thompson. Do

advises that James Maloney had a distinctive voice. I take it you would agree with that?

A. He had a -- ?

Q. Distinctive voice?

A. He had an Irish voice but it is capable of imitation.

Q. You would not agree it was quite a distinctive voice?

A. Usually distinctive voices are the easiest to imitate.

Q. I wish you would answer the question.

A. I don't know whether he had a distinctive voice or not. Perhaps you think I have.

Q. You wan't agree or disagree with Magistrate Thompson on this. I would like to discuss this with you: When you were interviewing Magistrate Thompson he said you cross-examined him. Would you not ask him how he knew it was Maloney?

EB/T

A. I am not here to get into a defence for Maloney, or try to.

THE COMMISSIONER: Q. Just pay attention to the question. Did you cross-examine?

A. I talked to him; I wouldn't call it cross-examination. Mr. Common and I discussed this matter with him and in the course of the discussion, in trying to get everything in of exactly what the situation

Q. Have you anything else to distinguish your voice from another's?

A. No.

Q. Distinctive voice?

A. No.

Q. Do you or did you have any reason to doubt the identity of the voice you heard?

A. No doubt at all.

Q. You would not agree if was quite a distinctive voice?

A. Usually distinctive voices are the easiest to identify.

Q. I wish you would answer the question.

A. I don't know whether he had a distinctive voice or not. Perhaps you know I know.

Q. You won't agree or disagree with Magistrate Thompson on this. I would like to discuss this with you: when you were interrogating Sergeant Dougherty in only two case-stated lie, what did you say the lie was in the judgment?

A. I am not here to get into a debate for Mr. Mainwaring, do try so.

The Commissioner: Q. Does not answer the question. Did you cross-examine?

A. I believe he kept I mention's call in cross-examination. Mr. Common and I discussed this matter with him and in the course of the discussion, in trying to get everything in of exactly what the situation

was, we talked about the voice, is there anything to identify the voice. He said he thought it was the voice but he couldn't be definitely certain. It is a possibility it might have been somebody else. I would have thought he would be the best person to find that out of anybody.

MR. MacKINNON: Q. You realize, as well, he advised us he had no doubts as to whose voice because of the facts he mentioned?

A. I think you know enough about problems of proof, if you are introducing this into the criminal field, to know you have to have corroboration and enough evidence to make the thing stick, otherwise you don't. At least, I don't take part in laying charges in prosecutions which I do not think have enough evidence to stick. He was familiar, for four years as a magistrate; he had a Crown Attorney sitting there with him during this case; they ought to have known what to do in this situation.

Q. Even in connection with a Cabinet colleague of yours?

A. Yes, in connection with anybody.

Q. Do you think it was improper to come to you?

A. No. I would have thought his senior magistrate might have given him some help.

was, he turned down the voice, in there anything to identify the voice. He said he thought it was the voice but he couldn't be definitely certain. It is a possibility it might have been somebody else. I would have thought he would be the more person to find out out of anyone.

MR. HAMILTON: Q. You realize, as well, he advised us he had no doubts as to whose voice because of the fact he continued?

A. I think you have another, more problems of proof, if you are introducing this into the criminal trial. We have not been in have conversations and enough evidence to make the right calls. Whatever you don't. My James, I don't take part in laying charges in prosecutions which I do not have other legal evidence to hold.

He was candidate, for four years as a magistrate; he had a great reasoning starting there with the Crown Attorney's office. He knows what to do in this situation.

Q. Does in connection with a question colleague of yours?

A. Yes, in connection with security.

Q. Do you think if you inquired to come to you?

A. No. I would have thought the senior magistrate might have given him some help.

I know he had talked to the senior magistrate at some stage. In any event, he came.

Q. I take it you had Maloney's telephone number?

A. I didn't have Maloney's telephone number, except the Ministry of Mines.

Q. There would be no difficulty getting him?

A. I tried to get him. I didn't get him at that time. There may have been a lot of difficulty in getting him.

Q. If he was in Renfrew it would not have been a major problem?

A. Take all the eventualities, if you start to list them down. Where would I have ended if the day afterwards I had said, "Maloney, you are doing something", and he said, "Nothing to it", in his typical language. That would have been the end. Or, if he had said, "What can be done about it?" What do I then do, get the caution book out and caution him that anything said will be used against him? It is futile to expect the head enforcement officer to become an investigator at the police level.

Q. This is one of your appointees?

A. Who?

Q. Magistrate Thompson.

A. Yes, he was recommended --

Q. He is under your department in general?

A. Yes.

Q. The Attorney General's Department?

A. Yes, but I hope to have all the people --

THE COMMISSIONER: Never mind.

MR. MacKINNON: Q. And he was coming to you for assistance, wasn't he?

A. I don't think so. According to his evidence he said he didn't want to see me. Mr. Common brought him in to see me. That is the way I heard of it. The inter-com was used to say that Mr. Thompson was in his office and Mr. Common wanted to bring him in.

Q. He was seeking assistance from you or Mr. Common, or both of you?

A. I understood both in that conversation. And what Mr. Common told me, that he cameup to see what he should do, and the major thing he should do is give his judgment uninfluenced by anybody, which he did.

Q. I think you moved a little faster in another matter than you did with regard to Malerey. You were written, I understand from the exhibits filed, with regard to a request that you should interview Mr. Eric Scott, who was Mr. Ford's

Q. Do you know just approximately?

A. Yes.

Q. The Attorney General's Department?

A. Yes, but I hope to have all the details.

THE CONSTABLE: Never mind.

MR. McKINNON: Q. And he was coming to you for instructions, wasn't he?

A. I don't think he. Interesting in this evidence he said he didn't want to see me.

Mr. Common brought him in to see me. That is the way I heard of it. The inter-com was used to say that Mr. Thompson was in his office and Mr. Common wanted to bring him in.

Q. Do you usually maintain from you or Mr. Common, or both of you?

A. I unnecessarily seek in that conversation. But then Mr. Common said, that he wanted to see what he should do, and the major thing he should do is give his judgment unaffectioned by anybody, which he did.

Q. I think you have a little fuzzier in another matter than you did with regard to Haines. You were written, I understand from the exhibits filed, with regard to a request that you should test Detective Sgt. Hart first, and the Mr. Hart's

junior on the prosecution. Isn't that correct? Isn't that correct?

A. Would you repeat that question, please?

MR. MacKINNON: Mr. Reporter, would you read the question?

THE REPORTER: "Q. I think you moved "a little faster in another matter "than you did with regard to Maloney. "You were written, I understand from "the exhibits filed, with regard to a "request that you should interview "Mr. Eric Scott, who was Mr. Ford's "junior on the prosecution? Isn't "that correct? Isn't that correct?"

A. I was written by Mr. Wintermeyer. You are referring to Mr. Wintermeyer?

MR. MacKINNON: Q. Yes.

A. I would like to have the letter Mr. Wintermeyer wrote. I believe it has been filed here. It got in with reference to some other matter and I would like to see what is on file here.

MR. MacKINNON: Mr. Registrar, could you get out those exhibits? It is towards the end of June.

THE COMMISSIONER: I do not remember that.

MR. WILSON: What are you looking for?

Jaffer on the prosecution. Until that moment
isn't that correct?

A. Would you repeat that question,
please?

Mr. Martinez: Mr. Reporter, would you
read the question?

THE REPORTER: "Q. I think you moved
to Little Ferry in another area
"then you did with regard to Delaney.
"Yes more actively, I understand from
"the exhibits filed,with regard to a
"request that you should interview
"Mr. Earl Brett, who was Mr. Jaffe's
"junior on the prosecution? Isn't
"that correct? Isn't that accurate?"

A. I was written by Mr. Winterscheer.
You are referring to Mr. Winterscheer?

Mr. Martinez: Q. Yes.

A. I would like to have the letter
Mr. Winterscheer wrote. I believe it has
been filed here. It goes in with reference
to some other matter and I would like to see
what is on file here.

Mr. Martinez: Mr. Reporter, could
you just read back exactly. It is towards
the end of June.

THE COURTROOM: I do not remember
that.

Mr. Hilliard: What are you looking for

MR. MacKINNON: A letter from Mr. Wintermeyer to Mr. Frost and to Mr. Roberts, and I believe Mr. Roberts wrote a reply. It is 243.

MR. WILSON: 243, 244, 249 and 250.

MR. MacKINNON: Q. I take it, witness, you remember the request being made?

A. Oh, yes. I remember a lot about that matter but I would like to see just what letter you are referring to and have it produced, please, so I can examine it.

(Page 12125 follows)

D/1/NG

MR. WILSON: 243, 244, 249 and 250. 243 is broken down into A, B and C. 249 is broken down into A, B and C.

MR. MacKINNON: Q. 243 is the letter of July 17th from Mr. Wintermeyer -- 243-B, from Mr. Wintermeyer to Mr. Frost and Exhibit 249-B is the letter of July 26th from Mr. Frost to Mr. Wintermeyer stating he has handed Mr. Wintermeyer's letter to the Attorney-General. I take it that means that the letter was handed to you. And then you wrote a reply or a letter saying your door was always open.

A. I have the letter. Is my letter not on file?

THE COMMISSIONER: Yourletter to Mr. Wintermeyer is 250.

MR. MacKINNON: Yes.

THE WITNESS: I have the letter here now dated July 26th, 1961.

MR. MacKINNON: Q. Now, your reaction to that, was it not to have Inspector Graham, according to his evidence which he has given us, secure a police report from Scotland Yard on Eric Scott? Isn't that correct?

A. That is not in connection with this letter. But Mr. Eric Scott who, I believe, came from the Old Country, a single man, was doing what we call"devilling" and by the bill he presented, I would say they have a

Mr. Stirson: May, Mr. Chairman, I have a letter from Mr. Wickenheiser to Mr. Trout and Inspector Gibson-2 in the letter of July 28th from Mr. Trout to Mr. Wickenheiser stating he has handed Mr. Wickenheiser's letter to the Attorney-General. I have it here unless you have one handed to you. And then you write a reply or a letter saying your door was always open.

A. I have the letter. Is my letter not on file?

THE COMMISSIONER: Your letter to Mr. Wickenheiser is 2?

Mr. McKinnon: Yes.

THE WITNESS: I have the letter here now. Shall I read it, sir?

Mr. McKinnon: Q. Yes, you therefore to that, was it not to have Inspector Gibson, according to his evidence which he has given us, receive a polite reply from William Trout on July fourth? Isn't that correct?

A. That is not in connection with this letter. The Mr. Pyle that was, I believe, came from the Old Country, a single man, was doing what we call "dawdling" and by the bill he presented, I would say they have a

sharp man. He presented a bill ---

Q. Is that in this ---

A. -- for $1,500. to the Attorney-General's Department for work he did in helping prepare this case.

THE COMMISSIONER: Q. Assisting Mr.Ford?

A. For Mr. Ford, yes, working with Mr. Ford. He apparently took upon himself, having acted in that capacity, to convey to the Leader of the Opposition by a memorandum libelous and serious claims and charges based almost entirely on hearsay. And as a result of his actions, Mr.Wintermeyer wrote the letter to Mr. Frost which was referred to and which is on file. Mr. Frost referred it to me and I wrote Mr. Wintermeyer on July 26th, 1961. Then Mr. Scott, who was at the time up to that point ever junior to Mr. Ford, with Mr. Ford or anything else, suggested or came up to my Department and asked for an appointment with me. He went to the Leader of the Opposition and gave information. He gave hearsay evidence. He gave what was confidential material supplied for the purpose of the trial taken as a result of the characterizing and discussing with various witnesses, police officers and others. He gave all this information or his conclusions as the result of it to Mr. Wintermeyer in the form of these

many men. Mr. Greenwood's will ---

Q. The work is done ---

A. -- for $2,000. to the Attorney-General's Department for work he did in helping prepare this case.

THE CHAIRMAN: Q. Although Mr. Greenwood

A. For Mr. Ford, yes, working also for Mr. Ford. He apparently had been consulted, having acted in that capacity. He reported to the Leader of the Opposition by a memorandum initialed and marked which he had almost entirely on memory. And as a result of his questions, Mr. Whitemoyer wrote the letter to Mr. Ford which was referred to and which is on file. Mr. Ford referred it to me and I wrote Mr. Whitemoyer on July 25th, 1951. Then Mr. Scott, who was going time up to that point over Leader to Mr. Ford, and Mr. Ford or any other one, suggested or came up to my Department and asked for an appointment with me. He went to the Leader of the Opposition and gave information. He gave honorary attention. He gave that his substantial material supplied for the purpose of the total taken as a result of the circumstances and attending with various witnesses, going officers and clerks. He gave all the information of his conclusions as the result of it to Mr. Whitemoyer in the form of three

libelous statements. Then he didn't get the memorandum back as quickly as he would have liked to. Perhaps he regarded the memorandum of that sort in the hands of anybody might be a very serious thing.

MR. MacKINNON: I wouldn't conjecture. Please don't conjecture.

THE COMMISSIONER: We will lose the question.

THE WITNESS: I am getting to it in this way, that the letter, the memorandum -- Mr. Wintermeyer, I presume, had undertaken to return it to him very promptly. It hadn't been returned. He was informed -- I am giving the kind of evidence I don't like to hear given, but as I understand, he was told by Mr. Wintermeyer's office that the letter had been mailed a couple of days before or something of that sort. It wasn't at his office. He goes to the Toronto police ---

THE COMMISSIONER: Q. Can't we get down to the answer to the question? Then you can tell me why you did it.

A. I thought that is what he was asking.

MR. MacKINNON: Goodness!

THE WITNESS: I thought he asked whether we asked ---

MR. MacKINNON: Q. I asked you if you

didn't table or have Inspector Graham table to Scotland Yard to get a police report on this Eric Scott?

A. I asked for a report on him.

Q. It was to Scotland Yard?

A. I asked for a report through their regular channels, yes, I did. Now I am leading up to ---

Q. Now you are explaining why you did it?

A. Yes. If I may continue, the memorandum I mentioned of this material, this confidential material and material obtained -- practically all of it now before you that came out of diaries and so forth, this was to be returned to him. He hadn't received it so he went to Commissioner Clark and Chief Inspector Graham informed me in the latter part of July when they were so informed by the Toronto police, that he had gone to the Toronto police and claimed there was all sorts of bad business going on at Queen's Park including tampering with his mail and the Attorney-General's Department was being investigated by him and that he wanted steps taken to see where his mail was. Ultimately his mail turned up two doors down the line where it had been in somebody else's office. It had been addressed to a room number two numbers

Q. Mr. Smith or Dave Richardson, Dodge could be involved then. Do you a police report on this Dodge Monaco?

A. I asked for a copy, as you.

Q. Is that the Detailed Theme?

A. I asked for a copy. Normal, normal, regular circumstances, yes, I did. When I am learning up to ---

Q. You are explaining why you did it?

A. Yes. If I may continue, the circumstances I mentioned at this meeting, both substantial material and material omission — particularly all of a sudden before you that case and of disorder and so forth, this was not be overlooked or lax. So now I consider it as we went to Commissioner Giant and Chief Superior Venden informed us in the Jazzin part of that case that they were so informed in the Toronto police, which we had gone to the Toronto police and claimed false and did cause of and problems going on at Chief's Death Institute impacting with the part and the Attorney-General's Department was being investigated by him and that he should step back to see where his work was. Ultimately this matt turned up two days after the line where it had been to somebody else's office. It had been addressed to a room number two rather

more than his own in error by the Opposition office. When he got it, he decided he wanted to have it fingerprinted and everything else to see if it had been opened and tampered with. He took it to the crime lab. and asked Inspector Graham to do this for him, to have it fingerprinted and examined to see if anybody was monkeying with this letter. When this was all reported to me, I began to wonder -- in addition to a great deal of other information I had about him -- I began to wonder what sort of fellow we had been dealing with and what sort of man he was. I thought the best thing to do was to find out what we could about him in the manner in which I asked for it.

Q. And the report we understand, we have been advised, came back that this man was an honourable person?

A. He had no criminal record. I may add I had also tried to find out whether he had had any health problems at all but we were not able to get any answer on that.

Q. Just so the record will be perfectly clear, you were aware, were you not, that before Mr. Scott ever went near Mr. Wintermeyer, he had attempted to see Premier Frost on June 30th? You were advised of it, weren't you?

were that not one is safe in the Dominion
either. Then he got Lilya invited to meeting
to have it discussed and convincing she
to see if it had been opened and tampered with.
He took it to the office lab. and asked
[illegible] Dawson to do this for him. He saw
it fingerprinted and photoed to see if
anyone had tampered with it before. Then
was not fit opened in his. I began to
wonder -- in addition to a great deal of other
information I had about him -- I began to
wonder what sort of fellow we had been
dealing with and what sort of man he was. I
always like best trying to do men to find out
why or would about him in the course in which
I could for it.

5. And his papers as laboratory, we
have been advised, some back that this man was
a Communist party.

6. He had no criminal record. I
say and I had also tried to find out whether
he had had any health problems or all but we
were not able to get any answer on that.

7. Then as the record will so
indicate, you may [illegible] the you [illegible]
that before Mr. Scott over read back to
Wednesday, he had arranged to see Premier
Frost on June 20th? You were advised of it.
Mr. Scott's [illegible]

A. Yes.

Q. He said he had.

A. I might say in connection with that visit of his at that particulartime, his mind was concentrated on something wrong up in the Department of the Attorney-General because there seemed to be a delay in launching the appeal against the acquittal of the three people, Wright, McDermott and Feeley in the trial that had terminated earlier thatmonth. His whole approach at that time was to pressure and force an appeal to be taken.

Q. Now, I think it was a little wider than that. He wrote a letter to Mr. Frost once again before he ever went to speak to Mr. Wintermeyer on July 7th, 1961.

A. Excuse me, may I repeat the chronology of that? That was after the notice of appeal had been filed.

Q. He went to see -- he wrote Mr. Frost.

A. I am speaking now of when he went to see Mr. Frost the first time. I have mentioned the whole substance of what he was talking about was in relation to what he thought was an definite decision on the part of the Attorney-General's Department not to appeal, in which decision he saw crime and corruption.

Q. I say again it is far wider than

A. Yes.

Q. He will be back.

A. I might say in connection with that visit of his to Lake Providence, the mind was concentrated in something going on in the department of the Attorney-General's office which seemed to be a duty to immediately the appeal against the assessment of the three banks, Union, Commercial and Dominion to the Court then and Commercial Section Statutes. The whole question in that line had to be proceeded and forms an appeal to be taken.

Q. Now, I think it was a little after that that Bank. He wrote a letter to Mr. Ivens once again before he ever went to speak to Mr. Macdonald on July 7th, 1921.

A. Excuse me, may I repeat the conversation of last ... that was after the notice of appeal had been filed.

Q. He went to see -- he wrote Mr. Ivens.

A. I am guessing now of what he went to see Mr. Ivens the first time. I have mentioned the whole circumstance of what he was talking about was in relation to what he thought was an unfair decision on the part of the Attorney-General's Department not to appeal. In which decision he was online and corresponding.

Q. I say again it is for water that

that according to the memo.

A. I am speaking of the first. I am talking about the June one you mentioned.

Q. You didn't see him in June?

A. No. You said to me he went to see Mr. Frost in June. In answer to that question, I have been making these statements. If you have a later date, come up with it.

Q. June 7th -- July 7th, 1961, which reply, 249-D, private and confidential letter to the Honourable Leslie M. Frost. Is that correct?

A. You read it. Let me see it. He may have. I suppose he did. I can't identify that.

Q. He received no reply to it either, did he?

A. I don't know. It was written to the Premier, not to me.

Q. Weren't these things turned over to you?

MR. WILSON: We are not going to repeat that. We have had it once.

MR. MacKINNON: I don't know what he is talking about.

Q. You were advised of the visit of June 30th?

MR. WILSON: Mr. Commissioner, if Mr. MacKinnon is making any statements like that, we

back according to the song.

A. I am speaking of the first. I am talking about the June one you mentioned.

Q. The April one was the in June?

A. No. You said to me we were no no in. Front in June. In answer to that question, I have been making those statements, if you have a later date, come up with it.

Q. June 7th -- July 7th, June, which was, Office-Service and Confidential letter to the Honourable Leslie M. Frost. In that conversation

A. The read it. Can we see it; on my have. I cannot do it. I don't remember that.

Q. He received no reply to it either, did he?

A. I don't know. It was written to the premier, not to me.

Q. Weren't these things turned over to you?

MR. WHITE: We are not going to recover that. We have had it once.

MR. MACDONALD: I don't know what he is talking about.

Q. You were aware of the visit of June 22nd?

MR. WHITE: Mr. Commissioner, if Mr. Macdonald is making any statements like that, we

better clear it up.

MR. MacKINNON: He has just given evidence of the visit of June 30th.

MR. WILSON: Let us read back the question. You say you didn't recall.

THE WITNESS: I said I didn't know whether he did.

THE COMMISSIONER: I have a very vivid recollection and there was evidence being put in.

MR. MacKINNON: He replied to Mr. Wintermeyer's letter.

MR. WILSON: Will you look up 249-B? Have you got it there?

MR. MacKINNON: It is addressed to Wintermeyer after Wintermeyer ---

THE COMMISSIONER: Wait a minute now. There is a lot of confusion. Let us get the matter straightened out. As part of Exhibit 249, there is first a letter dated July 7th, 1961, from Scott to the Honourable Leslie M. Frost. There is a clipping from the Globe and Mail. I don't know for the moment just what that relates to. And there is a letter from Mr. Frost to Mr. Wintermeyer. Now, there is nothing in that exhibit. There is in that exhibit -- there is no reply from Mr. Frost to Scott. In Mr. Frost's letter to Wintermeyer dated July 26th, there is reference

[illegible] clear it up.

MR. MACKENZIE: Do you just listen [illegible] evidence of the state of your [illegible].

MR. WILSON: Let us move back the question. You are very good nearly [illegible].

THE WITNESS: I said I didn't know whether [illegible] no did.

THE CHAIRMAN: I have a very vivid recollection but there has evidence being [illegible] in.

MR. MACKENZIE: He replied to Mr. Wilson-[illegible]'s letter.

MR. WILSON: Will you look on [illegible] then you had it [illegible]?

MR. MACKENZIE: It is addressed to [illegible] after [illegible] —

THE CHAIRMAN: Wait a minute [illegible]. There is a lot of [illegible]. Let us get the matter straightened out. As part of Exhibit 149, there is [illegible] dated July 7th, 1951, from Scott to the Commissioner Leslie E. Frost. There is a [illegible] from the Clerk and Wall. It doesn't have the account just [illegible] for. And [illegible] letter from Mr. Frost to Mr. [illegible]. Now, there is nothing in that exhibit. There is [illegible] in that exhibit — there is no reply from Mr. Frost to Scott. In Mr. Frost's letter to [illegible] [illegible] [illegible] [illegible] [illegible]

to a letter received by him, that is Mr.Frost, from Mr.Wintermeyer dated July 17th. But it isn't part of this exhibit.

MR. MacKINNON: It is in, sir.

THE COMMISSIONER: Then this is part of Exhibit 243. Now then, what is your question?

MR. MacKINNON: Q. My question is,to his knowledge -- apparently he was advised of these things. I think it is important to Mr. Scott because it is being suggested he went to Mr. Wintermeyer. He tried to see the Premier on June 30th without success. Then he wrote on July 7th,1961 and, so far as I am aware, equally without success. This witness is familiar with the background of this matter and any other information, I would be pleased to have it.

A. Yes. I don't know whether Mr. Frost replied to that letter or not.

THE COMMISSIONER: Just a moment. Now, what is the question?

THE WITNESS: I don't know whether Mr. Frost replied to that letter or not. I do believe that Mr. Frost was on a holiday and didn't arrive back -- he was away from Toronto or out of the city and didn't arrive back until the 17th or 18th of July of that year.

THE COMMISSIONER: All right, we have it. He didn't go to Wintermeyer in the first instance.

So a letter received by him, dated in Mr.Proud, from Mr.[illegible] dated July 17th. Did it have a copy of this letter?

MR. BRUCKHAUSER: I'm in the, sir.

THE COMMISSIONER: Then this is part of Exhibit 269. Now then, what is your question?

MR. BRUCKHAUSER: Q. Mr. Sullivan, in his knowledge -- [illegible] on the activities of these stations. I think it is important to me. Proud presumes it is being suggested he was in Mr. Blatchford. My study is only the Tribune on this [illegible] statement.

Then he wrote on July 7th,1951 and, as far as I am aware, quality without comments. This witness is testifying with his background of this matter and my other information, I would be pleased to have it.

A. Yes. I don't know anything Mr. Proud relating to that letter as far.

THE COMMISSIONER: Have a hearing. Now, what is the question?

THE COMMISSIONER: I don't know anything Mr. Proud replied to that letter as far. I do believe that Mr. Proud was on a holiday and didn't receive that -- he was away from Toronto at that of the city auditor's office here until the 23rd or 24th of July or that year.

THE COMMISSIONER: All right, we have it. Mr. Sullivan, do you recognize in that Exhibit [illegible]

MR. MacKINNON: That is right.

THE COMMISSIONER: All right.

MR. MacKINNON: Q. Now, you did subsequently have an interview with Mr. Scott, did you not?

A. I think I better get ---

THE COMMISSIONER: Q. Did you subsequently have an interview with Mr. Scott?

A. Yes.

Q. Then say yes.

A. But I think it needs some explanation. I had an interview.

Q. In other words, you now want to explain?

A. I had an interview with Mr. Scott after Mr. Wintermeyer had written me and after I had written Mr. Wintermeyer in reply to the letter he wrote to Mr.Frost and this is a copy of this letter of July 26th, 1961 to Mr.Wintermeyer and perhaps I pointed out in that letter the proper ---

Q. What letter?

A. In my letter to Wintermeyer of July 26th,1961.

Q. Just a moment.

MR.MacKINNON: 250, I believe.

THE WITNESS: 1961.

MR. WILSON: That is 250.

THE WITNESS: I would like to have that

letter read.

MR. MacKINNON: It has already been read. It is in.

THE WITNESS: Yes. Then I would point out before I go further on that, Mr. Ford was retained to represent the Crown. Mr. Scott as solicitor was employed by Mr. Ford as an assistant and junior in the case. He would, in his professional capacity, in the ordinary course have available to him information of a confidential nature. You must understand in a case of this sort ---

THE COMMISSIONER: I have the letter. You don't need to clutter up the shorthand notes by reading it.

THE WITNESS: I want to point out it made certain allegations and I say I went to pains to reassert I had confidence in my officials.

THE COMMISSIONER: I see that.

THE WITNESS: And at the end, I said, "I point out that the proper and professional method of dealing with this matter --- "

THE COMMISSIONER: I see that too already.

THE WITNESS: Then I have said somewhere in that letter that my door was always open to anyone who had proper business with me. Up to this point, no request was ever made to

letter read.

MR. MAHONEY: It has already been read.

It is in.

THE MINISTER: Yes, then I will just and believe I go further on that, Mr. Speaker, proceed to recommend the Minister, Mr. Speaker, solicitor was employed by Mr. Ford as an assistant and junior in the case. He would, in his professional capacity, in the ordinary course have available to him information of a confidential nature. The last witnessed in a case of this sort ---

THE CHAIRMAN: I have the letter. You don't need to elaborate up the structural made by reading it.

THE MINISTER: I want to point out it made certain allegations and I say I want to point to reasons I had conference in my office.

THE CHAIRMAN: I see that.

THE MINISTER: Now in the end, I said, "I point out that the proper and professional manner of dealing with this matter ---"

THE CHAIRMAN: I see that has already.

THE MINISTER: Then I have had assurance in that letter that my case was simply been to argue the bad proper business with me.

Up to this point, no request has ever been made to

me, the Attorney-General of the Province, to see Mr. Scott. No request whatever was made by Scott or anyone fof me to see Mr. Scott. Now then, he did -- Mr. Wintermeyer did write again. Is that letter on file, the second letter from Mr. Wintermeyer?

MR. MacKINNON: I don't believe it is --

Q. Asking for an appointment?

A. Yes. We better get that.

MR. WILSON: I think it is 251.

THE COMMISSIONER: I am very interested, Mr. MacKinnon, in knowing what you are aiming at.

MR. MacKINNON: I want to find out what this man did as a result of a complaint which was made. He starts out as if he was going to smear Scott as indicating he had gone to Mr. Wintermeyer without exploring any other avenue. I wanted to emphasize the man had tried to see the Premier of this Province.

THE COMMISSIONER: We have that.

MR. MacKINNON: I want to find out what he did about these complaints.

THE COMMISSIONER: What who did?

MR. MacKINNON: The Attorney-General of the Province.

THE COMMISSIONER: He wrote Mr. Wintermeyer.

MR. MacKINNON: I asked him if he had an

interview with Mr. Scott.

THE COMMISSIONER: He said yes. Now what are you aiming at?

MR. MacKINNON: I think I am entitled to find out what he did with reference to these complaints, about his Department and about the evidence we have been canvassing here for nearly six months.

THE WITNESS: I saw Mr. Scott. Present at the time I saw him was Mr. Gordon Ford, also Mr. Common, also Mr. Bowman and myself.

MR. MacKINNON: Q. Did Mr. Scott have anyone with him?

A. No, I don't think so. He came and all these people were present and I told him I thought they should be there and he was quite agreeable to that. I might say we knew the wording, the contents of this memorandum that went to Mr. Wintermeyer prior to Mr. Scott's arrival at the office and as soon as the contents of that scurrilous document was made known to us, we began in the office a very thorough and painstaking survey of every allegation and every effort was made to put it into perspective to determine what the proper answers were. Mr. Scott came and I think it was around the end of August and I took them one by one.

MR. WILSON: So we will have it, Mr.

Commissioner, this is the letter from Mr. Scott to this witness of August 15th. I don't think it is in.

THE COMMISSIONER: All this has got in in the sloppiest possible way I can conceive of and resulted in an indignation on the part of Mr. Frost.

MR. MacKINNON: With great respect, it got in through Inspector Graham's files.

THE COMMISSIONER: I don't care how it got in. It got in in the sloppiest way.

MR. MacKINNON: I asked for the files. That is clear. I asked him to read these in. I didn't know what was in them. I didn't see these files.

THE COMMISSIONER: You are asking him what he did. He is telling you what he did.

THE WITNESS: I took these items he had raised one by one and with the memorandum that had been prepared by me -- he sat across from me. I think he is hard of hearing but I think he heard everything that took place on that occasion. He appeared to -- and taking each of these items -- I think there were something like seventeen of them -- I gave him the answers my Department had by their research and checking made available and after a couple of hours, I would think ---

THE COMMISSIONER: Q. He left?

A. He left.

MR. MacKINNON: Q. Did he indicate he was satisfied with your explanation?

THE COMMISSIONER: What difference does that make?

MR. MacKINNON: Q. -- or still dissatisfied? This witness, I thought, was going to be called at the very beginning of this hearing.

THE COMMISSIONER: Eric Scott?

MR. MacKINNON: Yes, sir.

THE COMMISSIONER: I don't want any opinions from Mr.Scott or anybody else. I want to know what the facts are.

MR. MacKINNON: I don't see any point in any further cross-examination.

MR. WILSON: There was only one matter, that this witness on Friday said he would prepare ammorandum. I take it he has not had an opportunity to complete that memo.

THE WITNESS: No. I gave instructions this morning for that and I will have it available very shortly.

THE COMMISSIONER: That is all.

THE WITNESS: Thank you, sir.

THE COMMISSIONER: Mr. Wilson, this isn't an exhibit.

MR. WILSON: No. I think to complete ---

THE COMMISSIONER: It has no value as an

A. Mr. Jeff.

MR. [illegible] Q. Did he indicate in any material way your [illegible]?

THE [illegible]: Don't discuss your [illegible] proof.

MR. [illegible] Q. -- or not with [illegible]? This already, I thought, was going to be noted as the [illegible] of this [illegible].

THE [illegible]: Only [illegible].

MR. [illegible]: Yes, sir.

THE [illegible]: I don't know [illegible] Five Mr. [illegible] or [illegible] that. I know [illegible] know [illegible] the [illegible] are.

MR. [illegible]: I don't know any [illegible] in any [illegible] [illegible].

MR. MILLER: There was only one [illegible] where [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] and an opportunity to [illegible] that [illegible].

THE [illegible]: No, I [illegible] [illegible] [illegible] for [illegible] and I will [illegible] it available [illegible] [illegible].

THE [illegible]: [illegible] to [illegible].

THE [illegible]: [illegible] [illegible].

THE [illegible]: Mr. [illegible] [illegible] [illegible] [illegible].

MR. [illegible]: No. I [illegible] to [illegible] [illegible].

THE [illegible]: It [illegible] [illegible] [illegible] [illegible] [illegible].

exhibit. I don't want it.

MR. WILSON: Fine. Mr. Rose asked me to inform you he has no questions. He left a few minutes ago.

THE COMMISSIONER: I forgot he had left. He has left?

MR. WILSON: He has left.

THE COMMISSIONER: All right, two-fifteen.

---Whereupon the hearing adjourned at 1:00 o'clock p.m. until 2:15 o'clock p.m.

(Page 12150 follows)

[illegible] I don't think it.

MR. [illegible]: Plain. Mr. [illegible] [illegible] to [illegible] you the [illegible] questions. The jury [illegible] the [illegible] that.

THE [illegible]: I [illegible] the [illegible] [illegible] the [illegible] Jury.

MR. [illegible]: The [illegible] Jury.

MR. [illegible]: All right [illegible].

—(Whereupon the hearing adjourned at 3:00 o'clock p.m. until [illegible] 9:00 a.m.)

(Page [illegible] follows)

AA/WJR/1

---On resuming at 2:15 o'clock p.m.

STANTON HOGG, sworn

EXAMINED BY MR. WILSON:

Q. You are a practising solicitor in the City of Toronto?

A. I am.

Q. As counsel for the Liberal Party?

A. Yes, sir.

Q. You were at one time a member of the Crown Attorney's Department, staff, in the City of Toronto?

A. My appointment was assistant Crown Attorney for the City of Toronto and the County of York.

THE COMMISSIONER: Q. When was that?

MR. WILSON: Q. What time was that?

A. That was from the late spring or early summer of 1954 within a few days after my graduation from law school to the 30th of November, I believe, 1960.

Q. Yes.

A. A period of about six years.

Q. Who appointed you? Was it a Provincial appointment?

A. Is it a Provincial appointment?

Q. By the Attorney-General?

A. I guess by the Lieutenant-Governor in Council. I believe the appointment of the Crown Attorney is -- I was approached when I was in law school to have an interview with the then Crown Attorney.

Q. At page 979 of the evidence here there was read into the record a report of a speech in the Toronto Star, April 17, 1961, and the heading is;

"Three Groups Battle to Rule
"Metro Crime --EX-Attorney.
" A former Toronto Crown Attorney --"

THE COMMISSIONER: Of what date?

MR. WILSON: April 17, 1961.

THE WITNESS: Is that the Star?

MR. WILSON: Q. The Star, yes. Now, to what body did you make this speech which was reported in the Star on that date?

A. There was a motion brought before the Ontario Liberal Association at the Royal York and after the motion was moved and seconded, I spoke to the motion.

Q. Then the report of your speech in the Star goes on to say:

"The former Toronto Crown Attorney
"suggested four crime syndicates
"are able to operate in Ontario
"because of payoffs to public officers
"and officials and police "

" Stanton Hogg, former Assistant "Crown Attorney for York County also "told the Ontario Liberal Association "Convention that at least three crime "syndicates were engaged in 'a life "and death struggle' for control of "the criminal element in the Metro "area."

First of all, during your period as Assistant Crown Attorney ---

A. Might I see that? It is different from my copy.

THE COMMISSIONER: What were you reading from?

THE WITNESS: Well, I assume it is a clipping from the same paper.

MR. WILSON: Q. Possibly it is another edition. Is it the same date?

A. I would think it would be the same date, and possibly the same edition. There is a paragraph in there saying, "It is the evil they do . . . police".

Q. Yes. Now, during the period that you were associated with the Crown Attorney's staff, did you ever bring to the attention of your superiors of the Attorney-General any facts which in any way bear on what you said in that speech?

A. Other than what I said in court as

counsel for the Crown in prosecuting cases and in my remarks as to sentences.

Q. During your period in office you did not consider the matter - any opinion you had or information you had - was not of sufficient importance to bring it to the attention of the then Crown Attorney, Mr. Gibson, or the Attorney-General?

A. I felt this was a matter of common knowledge.

Q. What facts did you have to support these far-reaching statements that you made as recorded in the Star?

THE COMMISSIONER: Take them one at a time.

MR. WILSON: Yes.

Q. At least three crime syndicates were engaged in a life and death struggle for the criminal element in the Metro area.

A. Well, it was generally known that there had been and were groups of gambling syndicates operating; betting houses and gambling houses. It was also well known and there has been decided cases where the police have seized documents which indicate that these men were making a great amount of money out of their activities.

Q. Yes?

A. There has been a considerable amount

of publicity in our press derived from the hearings in the States and that their problem was somewhat similar to ours. However, ours had not reached the point that theirs had. I think you will find that there is a reference here -- What I was saying was it was just common knowledge and common sense that vast illegal profits were being made from an organization that was illegal.

Q. You were reported as having said this -- have you a copy in front of you?

A. No, I haven't, sir.

Q. At an Ontario Liberal Association Convention, and this is the part I am particularly interested in, there are at least three crime syndicates engaged in a life and death struggle for control of the criminal element in Metro Toronto. Now, tell me all that you know with respect to these three crime syndicates. Who were connected with them?

A. I had thought I said "two or three" and I believe that was reported in another newspaper account; but so far as knowing the details of the individuals, I didn't; it was common knowledge that McDermott and Feeley and those associated with them were one group.

AA/2

Q. Yes?

A. It was known that Blustein and his group were also in this city. I'd say it was known that a group of Americans were trying to move up here and the Stringer brief had been made public and read in at the preliminary hearing of the Feeley and McDermott trial; and in that case it was obvious there was at least two groups jockeying for power.

Q. You speak of them as syndicates.

A. I define a syndicate of two or more people associated together in an illegal activity.

Q. What evidence did you have that they were engaged in a life and death struggle for control of the criminal element in the Metro area?

A. Well, by that I would mean the criminal gambling element. I would think that once having control of the gambling they would consolidate their position and move to other fields; but there was certainly no indication of that at that time. In fact, I think I stated that.

Q. Then you go on:

"He later declined to name names.

"Organized crime on a syndicate

"basis is now operated in Ontario."

Q. What did you have in mind there? You see what I am interested in? If what you

said is true and you had some knowledge of it and you base that knowledge on, "organized crime on a syndicate basis is now operating in Ontario", what did you mean by that?

A. I would certainly use that term concerning references to the Cooksville operation and the one I heard about down in the Windsor area. I knew there was one operating over in the Peninsula and there was a group behind this and that is what I would refer to as an organized gambling syndicate.

Q. Is that all you had in mind?

A. I heard the chap call Blustein was in those circles and he was quite a big operator in the city; but who was surrounding him I didn't know.

Q. "It is a disgusting situation "and one that we should do something "about, said Mr. Hogg."

A. It is a matter of a trial of a man by the name of John Plesechuk in December of 1959, was when he was operating.

Q. In 1959?

A. December of 1959 the trial took place, if my memory is correct, and he was running the Finnish Club. That was a trial in connection with Magistrate Thompson. There was another prosecution. In that case the police had entered this establishment

and herded everyone into the back room. There was a trap-door and they whistled in two other police officers waiting across the street. The police officers changed clothes. Meanwhile the operators were being questioned and they brought the operators into the room and let everyone go. The two men under the trap-door had a tape recorder with them.

Now, this man was just a front and stooge for Feeley and McDermott, or was in 1951, thought so by the police anyway. There is some evidence of it here. At that time remarks were made about the extent of gambling, that it was organized, and my submissions at that time were that a heavier sentence should be more than normally because this man was a front man.

Q. What happened to him?

A. He was sent to jail for a short time and his family was looked after.

Q. What was the sentence?

A. I think he got either three or six months; three months if I am correct. In 1956 down in Windsor there had been a prosecution of a man, 1955 I think, and he went to the Court of Appeal in 1956.

Q. What was his name?

A. E-r-d-l-y-n.

Q. His first name?

A. I can't be of any assistance to you, my lord. He was prosecuted and Magistrate Hanrahan, who was the magistrate in Windsor, found him guilty of the offence of keeping a common betting house.

Q. What year?

A. The only date I have is 1956.

Q. Was there a conviction?

A. He was convicted and sentenced to a term of imprisonment of three months, if I am not mistaken.

Now, from this decision he appealed his conviction and sentence to the Court of Appeal, which gave judgment on September 10th, 1956, and is reported as, "Rex vs. Erdlyn" in Volume 117 of The Canadian Criminal Cases at page 207. The Court of Appeal reproduced his reasons for judgment and his reasons for imposing sentence, in toto; and this was a page referred to in this trial and I believe in others where the magistrate referred to the operation of an illegal betting and gaming house. He also referred to the Kefauver inquiries in the United States. In part he says:

" Senator Kefauver made it "plain to the people of the "United States and Canada that it "is not merely a question of making

"a bet (reading to words) the
"citizens of our community."
He is referring to Windsor, my lord.

THE COMMISSIONER: Q. What happened to the appeal?

A. The appeal against conviction and against sentence was dismissed. It was pointed out that Parliament had increased the maximum sentence from six months to two years.

Now, there was something else. There are eight pagesand I was looking at them the other day but no doubt someone will be aware of other authorities. This is one that I found dealing with the same question.

Q. Is that what you had in mind by "organized crime"?

A. That is correct, sir.

Q. Operating in Ontario?

A. In addition, the Metropolitan Police were extremely concerned with this problem and my understanding was they regarded it as one of their biggest problems, if not their biggest one, and they were quite concerned with what would happen if it got out of hand. I discussed this question with senior police officials and junior police officials who were concerned with this problem.

MR. WILSON: Q. You talk about it being common knowledge:

"The former Crown Attorney said
"it was 'just common knowledge
"and common sense that a portion
"of the vast profits of criminal
"gambling should go to allay the
"eagerness of those charged with
"the maintenance of justice.'"

Do you know of any payoff to public officials?

A. Not to any particular individual, no, sir.

Q. You have no facts as to any actual payoff to any public official?

A. Other than what has come out through this Commission.

Q. None other than any evidence we have had here?

A. No.

Q. You make the statement:
"We have honest police whose hands
"are being tied behind their back
"by the politicians".

What were your supporting facts for that statement?

A. I think you will see that I drew a parallel there between what had happened in the States, that I suppose everyone knows about. That is, when you have some merchandise that is declared illegal for some reason or other

such as liquor down in the States at one point, vast profits are made by this. The organization built up in the States is still in operation and that is going back forty years or so. I thought the same thing might occur here, that it is bad public relations to go around shooting people and causing a furor in that way because the housewives and citizens and newspapers get quite upset about it. This is the reading I have done on the subject and if they could use the facilities of the law to achieve their end they would do so; and that would be my interpretation of the Stringer brief.

Q. I take it you have no facts to support these statements other than any facts that may have been given in evidence here?

A. No, and beyond what is available to anyone by reading the reports of these committees, and so forth.

THE COMMISSIONER: Q. What committees?

A. The Kefauver committee.

Q. In the United States?

A. In the United States.

Q. As I read this, you say --

A. I am sorry, my lord, and what occurred apparently in Windsor I would interpret that as meaning a breakdown in law enforcement.

Q. You say:

"Top police officers of the highest
"integrity were being hampered in
"their duty, continued Mr. Hogg."

I would interpret that to mean in their honest beliefs, is that what you mean?

A. Yes. There was a question of the chartered clubs, and I believe it was that these charters were not being cancelled with the speed the police felt that they should have been, and I think they had the feeling there was some political interference; but just what individual --

Q. "We have honest police whose
"hands are being tied behind their
"back by the politicians."

That is quite a charge; if you can throw some light on it here I would like you todo so. Have you some evidence that honest police were having their hands tied behind their backs by politicians?

A. No first-hand knowledge of that, my lord.

THE COMMISSIONER: All right, go ahead.

MR. WILSON: Q. That is all.

A. Except, as I say, so far as the charters were concerned, there is a feeling that there had been political interference there, but I have no first-hand knowledge.

THE COMMISSIONER: Mr. Rose?

EXAMINED BY MR. ROSE:

Q. Mr. Hogg, as I understand your evidence, you say that three crime syndicates are engaged in a life and death battle for control of the criminal element in the Metro area?

A. I thought it was two or three but I would think three.

Q. And you told us what they were, you said the crime syndicate was Feeley and McDermott and there is Blustein and No.3 a group of Americans trying to move in?

A. Yes. I think I was referring to Ontario, not just the Metropolitan area of Toronto.

Q. All right. Those are the three groups that you are speaking of?

A. Gambling syndicates.

Q. Yes.

A. Did you say they were involved in a life and death struggle for control of the criminal element in the Metro area?

A. Well, the word struggle, I didn't mean they were going around shooting each other. I made that clear that they didn't operate in that way.

Q. No matter which way they operated, what do you mean by a life and death struggle?

What battles or struggles can you tell us about?

A. I think if you will read a paragraph farther on, I tried to make it clear they didn't go around unless they absolutely had to machine-gunning each other; a struggle for power between these and someone else. There is always, I would think, in gambling groups the effort to expand their activities and take over the other groups.

Q. Would you care to give me your knowledge of group one, McBarnett and Feeley, which is one crime syndicate as you defined it.

A. That's right.

Q. What battle or struggle did they engage in?

A. Well, they started out on the Lake Shore; they had Cooksville; and it was felt they had the other two clubs or had an interest in them; one in the Peninsula, and it was an irresistible inference that the whole purpose of this Stringer brief was to knock them out by means of the law and take them over. As I understand it, there was a group from the States coming up, and I have that report here, and certainly whoever drew that up knew what he was talking about. It is a masterpiece for a prosecutor, in my opinion.

[illegible]

[illegible]

[illegible]

"I would further suggest that
"immediate steps be taken to
"cope with this situation
"because as each day passes it
"becomes more involved. If there
"is a lapse of much time many of
"these loopholes which I have
"mentioned will slowly but surely be mended.
"My reason for saying this is that
"their financial position strengthens
"each day this operation continues,
"thereby enabling them to hire or
"obtain more experienced legal
"advice, along with other individuals
"helpful in this respect.
" I hope that this brief will
"be helpful to you in your efforts
"to bring this club to a just and
"speedy trial."

I would take that to mean that this group in turn as it makes more money consolidates its position and is going to obtain some degree of protection itself from getting their sources of information.

Q. Is this what you mean by a life and death struggle, or battle?

A. That's right. I am not referring to the killing of somebody but if your business is out of operation, it is dead.

Q. That is what you meant?

A. Yes.

Q. You mean the facts set forth in the Stringer brief, inferences are drawn from it that one crime syndicate is trying to put the others out of business?

AA/A A. That is right.

Q. And you had knowledge of the Stringer brief in April, 1961?

A. I believe that was read into the preliminary hearing in March, 1961.

Q. The Stringer brief was read in?

A. Well, the Ramsay brief.

Q. Is that where you got knowledge of it, due to the fact it was read in at the preliminary hearing?

A. That is my recollection.

Q. As a result of that being read in, was that the basis of your speech to the Liberal Convention in April of 1961?

A. That was one feature. Apart from that, the whole situation in the States was that these different groups were jockeying for position and possibly that is what the police felt was going to occur here. If I am not mistaken, either Chief Constable Mackey or Inspector Walker made a statement to that effect publicly.

Q. Do I take it you feel this was --

it might happen here because of what had happened in the United States? Is that what you meant in your speech?

A. Yes. I think at one point I used the phrase, "We are approaching the point of no return".

Q. I take it you say they are operating in Ontario because of these officials and police, not something in the future, but at the present time, in April, 1961?

A. I think they were operating at that time.

Q. Are you saying in April, 1961, one of these crime syndicates that were operating in the Province was because they had paid off officials and police? Are you saying in 1961 when you made that speech that Feeley and Mahermott were operating in the Province because they had paid off officials and police?

A. It was inconceivable to me that one, lone police officer could protect this group.

Q. All right. Were you referring to one constable supplying them with information? Any particular name?

A. I have kept in mind - I don't know of any name - of course, the name of Wright, he was charged at that time.

Q. Well, of course, he had been convicted at that time.

A. He had not been convicted.

Q. When you say the crime syndicate -- You said that in April 17th, 1961, -- are you suggesting from that date you had evidence of your own that Feeley and McDermott made a bid to any policeman?

A. I am saying it is an irrestistible conclusion that I arrived at, that they would not be able to operate unless somebody was not doing the job they were paid to do.

Q. You drew the conclusion in April, 1961, Feeley and McDermott must have been paying off officers and the police, is that correct?

A. I would say the Hodges case would be applicable there. There was only one rational conclusion, no other rational conclusion.

Q. Is that your position at the present time, also?

A. They are not operating now, Mr. Rose.

Q. Is it still your position they were able to operate because they paid off officials and police?

MR. MacKINNON: Is it really important what this witness thinks?

MR. ROSE: I think we are concerned with it.

THE COMMISSIONER: Very much concerned.

THE WITNESS: I have no knowledge of any payment to any particular person.

MR. ROSE: Q. Except to Feeley and Mahermott?

A. That is right, from anyone. If you want my opinion --

Q. Well, I am not concerned with your opinion, Mr. Hogg.

A. Well, when somebody gets $50,000 ---

Q. It was just a matter of opinion. When you say on April 17th, "We have honest police whose hands are being tied behind their back by the politicians", isthat a matter of fact or a matter of opinion?

A. It is a matter of opinion.

Q. Is that still your opinion? It was not a matter of fact, is that correct?

A. That's right.

THE COMMISSIONER: Q. Have you any direct knowledge of that?

A. No.

MR. ROSE: Q. Yes?

A. The Metropolitan Police were having their problems, they were trying to get an undercover man in --

Q. Well, my understanding is --

THE COMMISSIONER: I do not think he is finished.

THE WITNESS: They got this undercover man in there.

MR. MOSS: Q. Where?

A. Constable Gossey, he is a detective now, and he passes himself off as a pilot and is able to get by in this set-up.

Q. Where is this?

A. Out on the Lake Shore; by passing himself off as a pilot - he was flying around - the only way he was able to do that was because he had been a pilot and recently resigned and went into the police force; but it was next to impossible to introduce an undercover man in because they seemed to smell him out every time.

Q. Where was this? Where on the Lake Shore?

A. The Lake Shore.

Q. They seemed to smell them out, is that your answer about an undercover man going into the Finnish Club:

"We have honest police whose hands
"are being tied behind their back
"by the politicians."

A. Yes.

Q. Would you tell me what facts you had on April 17th, 1961, to make that

statement?

A. No direct knowledge. I knew the police were very concerned over this question of charters. They felt they were not getting any place; that they knew a good number of these social clubs, and I am referring to the gambling ones - and they were not able to get these charters cancelled and that they were a gathering place or meeting place for criminals and people who in the opinion of the police were ones carrying on illegal activities. You wouldn't ~~ma~~ find one Finn in the Finnish Club. I doubt whether you would find a chess player in this club.

Q. You said in respect to the three crime syndicates that there was documents available showing they made a fantastic amount of money from gambling.

A. That's right.

Q. What documents were you referring to, and I will refer with just one of the crime syndicates, and that is Feeley and McDermott. What documents were ~~what~~ available in April ~~of~~ 17, 1961, to show that particular club or crime syndicate was making fantastic amounts of money from gambling?

A. Dealing with that one first, in the case of the trap-door, this was just one of a number; the police seized documents -

AA/5

not seized them, but they had a tape recorder going under the trap-door in the Finnish Club. As I understand it, the Finnish Club was one of McDermott and Feeley's satellite organizations and catered in the most part not to the wealthiest clientele but the second or third echelon. I forget now just what amount of money was being made at that time, but to me it was a fantastic amount, and that would be a matter of public record. You can calculate from the total number of bets that the profit would be.

Q. You say there were certain documents seized in a raid?

A. Yes, betting slips.

Q. That would be a total amount of bets over a period?

A. And from multiplication you can figure it out. The police seized a quantity of documents. I think the magistrate found that the profit, not the gross but the profit, was somewhat over one million dollars annually. That is a judicial finding.

Q. Let us get back to Feeley and McDermott for the moment. What documents were seized in the Finnish Club that showed they made a fantastic amount of money?

A. I would think they would be the betting slips.

Q. Do you know or don't you?

A. No. The transcript of evidence would show, plus the tape that was recorded showed the amount of bets coming in. That wasthat I was referring to as the documents; some concrete evidence.

Q. I gather in April, 1961, you had access to either the documents or the tape, is that correct?

A. Had access to them? I saw them during the trial. I prosecuted the case.

Q. How is it determined what the amount of profit was that was made on the ak amount of bets?

A. I just forget the figure now, but the transcript would show it.

Q. Did somebody take a percentage out of the air and say you have to make such a percentage on this amount of betting?

A. As I recall it, in evidence I stated as a fact what I had been advised by the police officer, but I didn't have anything to do with the profit, percentage ofprofit. That would be made by, I believe, Magistrate Addison, who took over from there and did his own calculations. He apparently had a number of cases like that so he was aware of the background.

Q. He knew of one way where he could

compute them?

A. Apparently it doesn't vary too much.

Q. Insofar as these crime syndicates are concerned, you mean people who had control of gambling in Ontario?

A. A group of individuals who were carrying out continuous transgressions of the Criminal Code, and offences.

Q. For example - do you have one?

A. Yes. I don't mean they gamble themselves, I mean they run a gambling establishment.

Q. Well, I didn't quite understand what you were saying, I understood you said the crime syndicates themselves who had control of gambling and they would move about getting control of the criminal element and after that they would move to other things.

A. That's right.

Q. You heard the evidence given here that Feeley and McDermott evidently started off with the Centre Road Club in 1952 or 1953.

A. I haven't heard than but if I can anticipate you, any suggestion that Feeley and McDermott were getting into any other type of illegal activity, I am not aware of it.

Q. No suggestion at all?

A. Not that I am aware of.

Q. All right. Blustein. What other type of criminal activities did this second group get into?

A. I would imagine if they followed the pattern established in the States - there is some hookup here I would think, because the names of these people were involved with criminals, and so on. Apparently the authorities in the States feel that once they consolidate their position they bankroll other activities.

Q. Are you able to tell me of any other criminal activity that Blustein and his group entered into as a result of having one of these syndicates?

A. You would have to ask the police.

Q. You don't know?

A. No.

Q. In respect to your speech of 1961, was to a large extent suspicion, conjecture and speculation as to what might happen in the future?

A. Yes, absolutely, so far as any other activity was concerned.

Q. This was a political speech made to the Liberal Association Convention?

A. It wasn't made to the Conservatives.

Q. Are you the same person that told

Mr. Bull that you would be the next Crown Attorney of Ontario?

A. The only thing, he said to me the morning after that when he came down -- I was inthe City Hall and said the only time I was worried was --

Q. Did you tell Mr. Bull you would be the next Attorney-General of Ontario before he would be a Crown Attorney?

A. I don't recall that, but if he said ~~fx~~ that, I wouldn't question it. It would be said in a facetious role. When you walked out of here one day you said you were going to a Mafia meeting.

EXAMINED BY MR. MacKINNON:

Q. Mr. Hogg, at the time you gave this speech, the preliminary hearing had been concluded?

A. Yes, sir.

Q. And you were interested enough in this preliminary hearing to get a transcript of it?

A. Yes, sir. I forgot about that, that's right.

Q. You were kind enough to lend it to me and this commenced on March 21st, 1961. Did you sit through this preliminary hearing yourself?

A. Almost hours.

Q. And the Stringer brief was read into the record there. A. I believe so. I am sure it was.

Q. Yes, page 304 of the transcript was read in. Also, when you gave this speech were you aware that Blustein had been beaten up?

A. Yes.

Q. Had you been advised that he at any time prior to this beating up had gone to the police seeking protection to carry a revolver?

A. I think so.

Q. Were you aware of the reason he gave for wanting this protection?

A. I had heard that he was in bodily fear.

Q. Was it from some opposition?

A. From some opposition.

Q. Yes, and you ~~make~~ mentioned that Chief Mackey had made some statements about the syndicates being in competition, is that correct?

A. That's correct.

Q. Were you aware of these statements - maybe the best way of getting at them is read from Mr. Cudney's evidence. He is talking about an interview he had with Chief Mackey and on page 1116 of his evidence:

"And I remember Chief Mackey was
"quite concerned with it, that
"syndicates had formed, and that
"it was something which should
"be looked after right away."

And then at page 1120, line 21:

"MR. HOGG: Q. Did he indicate
"to you, sir, that if something
"was not done very quickly there
"was going to be quite a problem,
"that the syndicates to some extent
"were in competition with each
"other?
"A. Yes, he did."

Were you aware at the time you gave the speech that higher police officers felt these things were so?

A. I'd had a number of discussions with them and I knew that they were very concerned with the problem because of the fact that what impressed me most was when a person of their calibre would say they regarded this as their greatest problem.

Q. I take it also before you gave

the speech you had read the articles written by Jocko Thomas, written in the Toronto Star?

A. Yes, I had spoken to him about it.

Q. Were these things in your mind when you gave the speech?

A. I had some first-hand experience of assaults taking place of people who apparently had gambling debts to pay and wouldn't or couldn't pay them. Most of these were out in the New Toronto area.

Q. Was the name of Feeley ever connected with those?

A. I never saw any more of Papalia, but there was another man who apparently owed a gambling debt and he drove on to a gas station almost right across from the police car at the end of the street.

Q. Where?

A. In New Toronto.

Q. Yes?

A. He was hit over the head with a hammer and he came into the police station or was brought in and a charge was laid against the man who assaulted him. There was no question at that time but to arrest this man and at that time he wanted a permit to carry a pistol. So, a charge was laid and this was one of the very few times in my six

years that I would interview a witness personally. There was no question in his mind at that time that he could identify the man. It was broad daylight in a gas station and he hit him with a hammer; but by the time he got into court he couldn't remember a thing.

THE COMMISSIONER: Q. He said he couldn't remember a thing?

A. He said he couldn't remember a thing.

MR. MacKINNON: Q. That hammer had given him retrograde amnesia?

A. I had told him a charge of public mischief would be laid after he turned his story around completely. I thought it would be a bad thing if these people were more scared of these hoodlums than law. As a result of this he took the attitude it didn't matter what happened to him as far as court proceedings were concerned. He wasn't going to testify and he didn't.

THE COMMISSIONER: Q. Did he identify his assailant to you?

A. Yes, he did. He swore out an Information and the police were there and I was there and the Chief talked to him after a while, and I did too. This apparently was a not too uncommon thing; but that is only because that sticks in my mind.

Q. Did he advise you this man was trying to collect a gambling debt?

A. I think it was a collection of some money. He had had calls at his house two or three times previously. I don't know whether this man was connected - I have no knowledge of this - that he was connected with Feeley and McDermott.

Q. Well, perhaps you might give us the names.

A. I can't remember the name of the accused.

Q. Did his name ever appear in this Commission?

A. I believe his name was Schwartz.

Q. Is he related to Blustein? Is he Blustein's brother-in-law?

A. I believe so, sir. He went to Kingston Penitentiary for a narcotics conviction.

Q. That is all, thank you.

---The witness retired.

ARCHIBALD F. SHEPPARD, sworn

EXAMINED BY MR. WILSON:

Q. You are a practising solicitor in the City of Niagara Falls?

A. That's correct.

Q. Is this file that I produce to you your file covering the Ramsay Club which was handled, so far as the annual returns are concerned, by the firm originally of Martin, Calvert and Matthews and latterly Martin, Calvert and Company?

A. Yes.

Q. Will you tell us when you opened this file?

A. The file was opened on March 28th, 1955.

Q. And on whose instructions?

A. Albert Iannuzzelli.

Q. What was the address you had for him?

A. 1737 Lowell Avenue, Niagara Falls, Ontario.

Q. Just to fix the time during which work was done as recorded in the file, what is the last entry in that file?

A. The last entry is a letter from the Deputy Provincial Secretary dated October 21st, 1959.

Q. I notice that in 1955 the first concern of your client was about the filing of annual returns for earlier years? You communicated with another solicitor?

A. Yes, that is correct.

MR. ROSE: I take the position in the event this witness is going to disclose any information of this kind, that it is privileged and I would object to this witness being asked or answering as to what his client said to him.

AA/5

THE COMMISSIONER: I do not know what it does disclose.

MR. ROSE: I thought I might bring my client's position to your attention.

MR. WILSON: I do not see how it is privileged.

MR. ROSE: I think my friend Mr. Wilson will have to establish (a) that as a result of instructions given by the client that a crime was being committed.

THE COMMISSIONER: I do not know what this file is, I have not seen it.

MR. ROSE: Neither have I.

THE COMMISSIONER: Your objection might be premature.

MR. ROSE: An objection must be made at the beginning because otherwise the matter might come up before you could object.

THE COMMISSIONER: Well, we will see as we go along. Mr. Sheppard was a solicitor and I would ask if I might see the file before the questions are asked.

MR. ROSE: I might have to object.

THE COMMISSIONER: You may have to.

MR. WILSON: Q. I take it that all of the matters covered by thedocuments in this file represent the work done on the instructions of Albert Iannuzzelli?

A. That is correct.

(Page 12200 follows)

BB/JRG/1 FAL

MR. WILSON: Q. Now, at the time you first received your instructions where was the head office of the Ramsay Club?

A. I don't believe that I can quite answer that. My communications were directly with Mr. Iannuzelli and the only document I have in the file, which is simply a correspondence file --

Q. Yes?

A. -- is a duplicate of the annual summaries filed under The Companies Act of the Dominion of Canada, in which it just says the city or town -- at least, the address of the head office is given as Port Erie.

Q. Coming back to a question I asked you earlier: Prior to your instructions from Mr. Iannuzzelli had you handled the filing of annual summaries on behalf of the Ramsay Club?

A. (No audible answer.)

Q. That had been done by whom?

A. I have no knowledge of that.

Q. I see you have a communication --

A. I was requested by Mr. Iannuzzelli to correspond with a solicitor in Montreal, to whom I wrote twice and received no answer.

Q. Now, on the instructions of Mr. --

THE COMMISSIONER: Just a moment.

Q. Let me see the letters to the Montreal solicitor.

A. This is one (indicating), and it was followed up with this one (indicating).

Q. That was followed by another one?

A. Just this (indicating).

Q. You wrote them under date of January 14, 1955 -- or, wrote him under date of January 14, 1955, and again under date of January 25, 1955, and received no reply to either letter. Quoting from your first letter -- The attorney in Montreal is described as Mario Latteni, 60 St. James Street West, Montreal. You open your letter by saying:

"Our clients, the present "directors of the above incorporated "club are concerned about the non-"filing of the 1953 annual returns."

How did you identify your clients as the directors of the above incorporated club?

A. At the time of writing I had no knowledge of the officers and I was writing in an attempt to find out what information I (sic) had, and I think that statement is made rather loosely, based on an assumption that Mr. Iannuzzelli had a position with the Ramsay Club.

Q. Had anybody else conferred with

you except --

A. No, not to my recollection.

Q. -- Albert Iannuzzelli? You communicated with this Montreal attorney on Iannuzzelli's instructions?

A. That is correct.

Q. To get what?

A. To get sufficient information in order to complete the annual summaries under the Dominion Companies Act.

Q. How did it come about that Lattoni had that information?

A. That was a name given to me by Mr. Iannuzzelli. He had no information himself.

Q. All right.

MR. WILSON: Q. What acts did you perform on behalf of the Ramsay Club on the instructions of Mr. Albert Iannuzzelli?

A. From a perusal of this file it would appear that I obtained forms from the Department of the Secretary of State and filed annual summaries for the year ended March -- Do you want these?

Q. Yes, the years, please.

A. The year ended March 31, 1953; the year ended March 31, 1955; March 31, 1956, and March 31, 1957 and 1958.

Q. From whom did you receive the

necessary information in order to prepare and have completed these annual summaries?

A. Mr. Iannuzzelli.

Q. Mr. Albert Iannuzzelli?

A. Mr. Albert Iannuzzelli.

Q. And who paid you for the legal services rendered in these years?

A. I don't have our accounting records, as to where the money, whether it was by cheque or cash, where it came from.

Q. To whom was the account rendered in each case?

A. I think in all cases to Mr. Iannuzzelli. Yes, that's -- .

THE COMMISSIONER: What was the name of the first Iannuzzelli who gave evidence here?

MR. ROSE: Albert.

THE COMMISSIONER: What is the other brother's name?

MR. ROSE: Louis.

MR. WILSON: Q. When did you sever relations -- that is, as a solicitor -- with Mr. Albert Iannuzzelli?

A. Prior, I think -- Several years prior to the dates given in this file our firm had formerly been known as Martin, Calvert & Matthews. Subsequently there was a change in the firm name and it was changed to Martin, Calvert, Bates & Sheppard.

That was in 1955, I believe. So that I performed no services for Mr. Iannuzzelli subsequent to 1955, with the exception of these particular summaries. For some reason he came back to me. Usually he would speak to my secretary and I wouldn't see him.

Q. After 1958 did you have any further work in connection with the Ramsay Club on the instructions of Mr. Iannuzzelli?

A. No.

Q. So that later on it was just a coincidence your firm was retained -- or, another partner in your firm was retained to take steps to bring about the forfeiture of the Ramsay Club charter?

A. That is correct, on instructions of the Attorney General for Canada.

THE COMMISSIONER: Mr. Rose, any questions?

MR. ROSE: Yes.

I would like to see those annual summaries, if I may.

THE COMMISSIONER: Q. Have you a copy?

A. It's just a correspondence file, Mr. Rose; with this one exception, a photostat of the one for the year 1958.

EXAMINED BY MR. ROSE:

Q. I see in 1958 the directors of the company are Maglio, Edwards, Del Duca, and, what, Bennett, four directors?

A. Yes.

Q. Can you give me the names of the -- Who is this (indicating)? Who is Tavano? I see the one in 1958, it was signed by Tavano and Maglio. Was Tavano a director? Evidently he was. He was the secretary of the club?

A. Whether or not he was a director I don't know. He refers to himself as the secretary.

Q. Do you have in your documents the persons named as directors in 1953, 1954, 1955, 1956 and 1957?

A. No, I am sorry, I haven't. I can only assume the reason for that is, as you know, the Dominion Companies summary may be filed with the Provincial Secretary; the endorsed duplicate is for the two.

Q. Does the name Ralph Agretti mean anything?

A. No.

Q. I gather while Albert Iannuzzelli asked you to make these returns he was neither a director nor an officer of the Ramsay Club, as far as you were concerned?

BB/2

A. No.

Q. Whether he was acting personally or on behalf of some one else, you do not know?

A. No; that is correct.

Q. While the bill for your fees was rendered to Mr. Iannuzzelli you cannot tell us who paid the bill?

A. No, I am sorry, I can't.

Q. Thank you.

THE COMMISSIONER: Q. Can you say whether or not those letters to which you got no reply were returned undelivered? Obviously the first one was not or you would not have written the second one?

A. That was to be my answer. No.

EXAMINED BY MR. MacKINNON:

Q. We have had evidence here, witness, this Ramsay Club re-opened in the fall of 1959. I take it your evidence is that you were not involved as a solicitor acting for whatever people might have commenced operations there in the fall of '59?

A. That is correct. In looking through that file I am not really too sure

who retained me. I presume it would be Mr. Iannuzzelli.

Q. Were you requested orally by any other lawyer to forward any material to him in the fall of 1959?

A. Yes, I think that is a fair presumption from the correspondence that appears.

Q. Just to make it a little more particular: From looking at the records of the State Department it appears the law firm of Fleming, Harris, Kerwin, Barr & Hildebrand of St. Catharines commenced to act for the Ramsay Club in the late summer or fall of 1959. Did you have any discussions with any one in that firm?

A. No.

Q. As to the records of this club?

A. No.

Q. Were you advised or were you aware at the time you filed the returns for this club as to what the objects of the Ramsay Club, as appears in the charter, were?

A. No, except that I must have had -- I obviously had the charter at one time and I presume I looked at it.

Q. It was to carry on hunting and fishing in Quebec, New Brunswick and other

places in Canada. Does that strike a chord?

A. Yes.

Q. And under the charter itself they were not allowed to provide a club house. Do you recall that?

A. No, my recollection does not extend that far.

Q. You were not requested, I take it, to seek anamendment to the letters patent?

A. No.

Q. To allow them to operate and maintain a club house?

A. No.

Q. Thank you.

MR. WILSON: Q. That is all, Mr. Sheppard.

---The witness withdraws.

THE COMMISSIONER: We will have a recess.

MR. WILSON: Mr.Commissioner, we will be reconvening and sitting in camera at that time.

THE COMMISSIONER: Yes, I know the situation.

There will be no further public sessions this afternoon.

---Whereupon the public sessions of the hearing were adjourned at 3.45 o'clock p.m., on Tuesday, 9th October, 1962.